

**SEX CELLS:
WOMEN'S PATHS TO INSTITUTIONALIZATION IN THE
HOSPITAL FOR THE INSANE, COBOURG, 1902-1935**

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A Thesis Submitted to the Faculty of Graduate Studies
in Partial Fulfillment of the Requirements for the
Degree of Master of Arts

Graduate Program in Interdisciplinary Studies
York University
Toronto, Ontario

June, 2017

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Abstract

Focussing on twelve women's experiences culled from patient files of the Hospital for the Insane, Cobourg, this thesis interrogates the use and abuse of the alternative dispositions that were available in gendered statutes between 1902 and 1935, which diverted women away from or out of Ontario jails and into reformatory and correctional facilities, and ultimately into mental health institutions. The examination of federal and provincial legislation, specifically *The Hospitals for the Insane Act*, the *Juvenile Delinquents Act*, *The Industrial Schools Act*, the *Criminal Code*, *The Andrew Mercer Reformatory Act*, and *The Female Refugees Act*, demonstrates the complicated, and occasionally contradictory, interrelationship of the statutes which enabled the process of committing and transferring women into consecutive institutions, resulting in more severe and lengthier confinements than would have followed if detained under the provisions in the *Criminal Code*.

Acknowledgements

I would not have been able to even start on this thesis without the help and cooperation of the staff at the Archives of Ontario. The individuals in the Information and Privacy Unit, the reference desk, the reception desk, (who offered to set up a cot in one of the private research rooms for me,) and the Ministry lawyers responsible for the Archives who helped with my court order, everyone has been unfailingly helpful and pleasant. A grateful thank you to Sarah, Shalene, Attilio, Aaron, Patricia, Rachel, Blythe, Desmond, Kalisha, Veronica, Erin, Neil, Peter, Michael, Lindsey, Anna, Garin, Serge, Alison, Don, and Brianna, and my deepest apologies if I have missed anyone.

My dearest thanks and appreciation goes to Ian. Without his understanding, patience, sense of humour, (and cooking,) throughout this process, this thesis would not been finished.
Ding!

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Introduction

I think that women do not know their history. If you know what happened before, you can follow the threads of history, right until the present time, and you can know why there's violence against women today. It's because of the legislation passed years ago.

- Velma Demerson¹

Velma Demerson was an eighteen year old white woman who in 1939, was committed under *The Female Refuges Act* for incorrigibility because she was living without the benefit of marriage to a 'Chinaman' and was pregnant. She was sent to the Toronto Industrial Refuge but it closed within months of her being admitted, and Velma was transferred to the Andrew Mercer Reformatory to serve out her term. Her autobiography "Incorrigible" described the appalling experiences she encountered both in and out of the facilities.²

Violet Bowyer, unmarried, pregnant, and a mother to an illegitimate child, was twenty years old in 1928 when she was committed by Magistrate Margaret Patterson of the Toronto Women's Police Court to the Toronto Industrial Refuge for two years less a day for being a vagrant. There, two medical doctors declared Violet insane and she was transferred to the Ontario Hospital, Cobourg, (previously known as the Hospital for the Insane, Cobourg). In 1930, her parents attempted to have her released from the Ontario Hospital, Cobourg on a writ of habeas

¹ Leisha Grebinski, "'Promiscuity' and Eugenics," *Briarpatch*, vol. 31, no. 10, December 2002/January 2003, 11.

² Velma Demerson, *Incorrigible*, Wilfred Laurier University Press, 2004.

corpus, although they were unsuccessful and she remained institutionalized past her initial committal of two years less a day.³

Demerson's and Bowyer's stories are illustrative of women's experiences with the courts in the 1920s and 1930s, and their sentence to a reformatory, or their committal to institutions, including industrial refuges and Ontario Hospitals. Their narratives are a catalyst for this thesis, which analyzes the laws that allowed imprisonment and institutionalization of women, and describes the effects of these statutes by providing examples of women's stories from their patient and case files.

I concentrate on women who were (ultimately) admitted and institutionalized between 1902 and 1935 in the Ontario Hospital, Cobourg, and have worked back to uncover their paths through various institutions to the court where they were first convicted and/or committed. In the process, I attempt to infer under which statute(s) a woman was convicted and sentenced, or committed, as the case may be. I use the word 'infer' because it is rare to find documentation in a patient or case file that stipulated the statute and section. Through each of the women's stories I introduce various legal, medical, and social issues they encountered such as court appearances, medical diagnosis and treatment, poverty, the focus on family psychiatric and moral history, and eugenics to provide context regarding how and why they were institutionalized.

The writing of patient histories is a developing field of study in Canadian academia. Giving voice to individuals institutionalized in Canada who have died and left virtually nothing behind but their patient file is a challenging undertaking. The protection of a patient's privacy is

³ Bowyer (re) [1930] O.J. No. 58; Constance Backhouse, "'Pleasing Appearance . . . Only Adds to the Danger'; The 1930 Insanity Hearing of Violet Hypatia Bowyer," *Canadian Journal of Women and the Law*, vol. 17, no. 1, 2005.

paramount. Agreements to access patient files with archival institutions such as the Archives of Ontario include direction that no personal information will be disclosed that can identify the patient. This can mean that a newspaper article in combination with anonymized information about a patient could potentially identify the patient, therefore, publicly available materials must also be anonymized. Further challenges will be fully discussed in the Research Methodologies chapter.

I focus on the period of 1902 to 1935 because it is prior to the influence of pharmaceutical “therapies”, electro-convulsive “therapies”, and invasive surgeries such as lobotomies. The 1930s also marked the demise of the Alexandra Industrial School, and the Toronto Industrial Refuge. I will be reviewing statutes including *The Female Refuges Act* and *The Andrew Mercer Reformatory Act* and how they evolved during the above time period to regulate and restrict women’s sexuality. I also argue that the use and abuse of these alternative dispositions that diverted women away from or out of the jails and ultimately into a mental health institution was a more severe and lengthier confinement overall, resulting in societal segregation of a certain class of women of child-bearing age, a facet of negative eugenics.

When I first embarked upon this journey, I had thought that a woman who was institutionalized in an Ontario Hospital due to a summary conviction offence, meant she was first probably convicted of vagrancy under the *Criminal Code*, then the court determined her to be insane, and she was thereafter admitted into an Ontario Hospital. But then I began to review patient files from the Ontario Hospital, Cobourg (hereinafter referred to as “Cobourg”), I realized that many women had made their way to Cobourg first through a court, then via the jails, the Alexandra Industrial School, the Toronto Industrial Refuge, the Andrew Mercer Reformatory, or

a number of other Ontario Hospitals.⁴ Unfortunately, the Cobourg patient files rarely noted the statute under which a woman was convicted, sentenced, or committed.

The literature on this subject is quite sparse. Ruemper, in her intriguing comparative study on the sentencing of female inmates incarcerated in the Owen Sound and Kenora jails, as opposed to the Andrew Mercer Reformatory, briefly referred to inmates in the jails incarcerated for lunacy and transferred to the Ontario Hospitals in Toronto and London, but did not directly mention any statutes.⁵

Although few in number, there have been authors that have written tangentially about the laws under which women were convicted and sentenced to facilities that were alternatives to jail. Dymond wrote a short synopsis about reformatory institutions and industrial refuges in 1923.⁶ The chapter provided just a taste of *The Female Refuges Act*, but as he mentioned in his prefatory note, “This little handbook is not to be taken as a substitute for the volumes of the Ontario Statutes[.]”⁷

Backhouse, in her article “Pleasing Appearance . . . Only Adds to the Danger”, wrote about the 1930 habeas corpus case of Violet Bowyer, an unsuccessful attempt by Bowyer’s parents to have her released from Cobourg. Backhouse specifically analyzed under which statute

⁴ There were a handful of other institutions that were also mentioned in the patient files but these were the most common.

⁵ Wendy Ruemper, “Locking Them Up: Incarcerating Women in Ontario 1857-1931,” *Law, Society, and the State: Essays in Modern Legal History*, edited by Louis A. Knafla and Susan W.S. Binnie, University of Toronto Press, 1995, 358, 367.

⁶ Allan M. Dymond, *The Laws of Ontario Relating to Women and Children*, Clarkson W. James, 1923, 82-87.

⁷ Dymond 3.

Bowyer would have originally been convicted, and determined that although vagrancy was cited, she was likely dealt with under *The Female Refuges Act* due to her term of confinement.⁸

Sangster has written books and articles about *The Female Refuges Act* using case files from the Andrew Mercer Reformatory, which mainly provided social context to explain the Act along with snippets of inmate's stories. Stephen's article on the Toronto Psychiatric Clinic, a facility where psychiatrists determined a woman's mental defectiveness, provided a necessary link in the chain of social and correctional facilities which may have led a woman into institutionalization. However, Sangster's brief examination and Stephen's reference to *The Female Refuges Act* did not acknowledge the other laws that were integrated or ran parallel with the Act.⁹

Glasbeek's book, *Feminized Justice*, (an extraordinary book to which I will refer later when discussing the Toronto Women's Police Court) touched upon the various laws under which women in the Toronto Women's Police Court were either convicted or sentenced. Mentions of *The Andrew Mercer Reformatory Act*, *The Female Refuges Act*, the *Criminal Code*, the *Prisons and Reformatories Act*, and Toronto by-laws, confirmed that there were multiple federal, provincial, and municipal laws that overlapped and impinged upon women's lives.¹⁰

⁸ Backhouse.

⁹ For example, see Joan Sangster, "Incarcerating 'Bad Girls': The Regulation of Sexuality Through the Female Refuges Act in Ontario, 1920-1945," *Journal of the History of Sexuality*, vol. 7, no. 2, October 1996, 239, 240; Joan Sangster, "Criminalizing the Colonized: Ontario Native Women Confront the Criminal Justice System, 1920-1960," *Through Feminist Eyes: Essays on Canadian Women's History*, Athabasca University Press, 2011, 296; Joan Sangster, *Regulating Girls and Women: Sexuality, Family, and the Law in Ontario, 1920-1960*, Oxford University Press, 2001, 114-121; Jennifer Stephen, "The 'Incorrigible,' the 'Bad,' and the 'Immoral': Toronto's 'Factory Girls' and the Work of the Toronto Psychiatric Clinic," *Law, Society, and the State: Essays in Modern Legal History*, edited by Louis A. Knafla and Susan W.S. Binnie, University of Toronto Press, 1995, 405-439.

¹⁰ Amanda Glasbeek, *Feminized Justice: The Toronto Women's Court, 1913-1934*, UBC Press, 2009.

Dombek and Tranmer, on the other hand, dedicated an entire paper to indeterminate sentencing under the *Prisons and Reformatories Act*. This highly informative article explained the reasons for alternative sentencing terms (primarily for reformation rather than punishment) and clarified the gender differences inherent in the statute. They also discussed the curious aspect of Parliament burying the alternative sentencing revisions in the *Prisons and Reformatories Act* rather than in the *Criminal Code*.¹¹

As noted above, the writing of patient histories is a developing field of study. Two notable authors who have written about patients in Ontario Hospitals are Geoffrey Reaume and Lykke de la Cour. Reaume has focussed mainly on patients who were housed in the Ontario Hospital, Toronto, which was exemplified in his thorough and engaging book, *Remembrance of Patients Past: Patient Life at the Toronto Hospital for the Insane, 1870-1940*.¹² De la Cour chose to review patient files from the Ontario Hospital, Cobourg which culminated in various articles and her well-researched PhD dissertation *From 'Moron' to 'Maladjusted': Eugenics, Psychiatry, and the Regulation of Women, Ontario, 1930s-1960s*.¹³ Together, they wrote an insightful article entitled "Patient Perspectives in Psychiatric Case Files" which gave a voice to the patients who were usually silenced.¹⁴

¹¹ Carl F. Dombek and Gary W. Tranmer, "The Indeterminate Sentence Under the Prisons and Reformatories Act," *Queen's Law Journal*, vol. 3, no. 3, Summer 1977, 332-367.

¹² Geoffrey Reaume, *Remembrance of Patients Past: Patient Life at the Toronto Hospital for the Insane, 1870-1940*, University of Toronto Press, 2009.

¹³ Lykke de la Cour, *From 'Moron' to 'Maladjusted': Eugenics, Psychiatry, and the Regulation of Women, Ontario, 1930s-1960s*, PhD Dissertation, University of Toronto, Toronto, Ontario, 2013.

¹⁴ Lykke de la Cour and Geoffrey Reaume, "Patient Perspectives in Psychiatric Case Files," *On the Case: Explorations in Social History*, edited by Franca Iacovetta and Wendy Mitchinson, University of Toronto Press, 2011, 242-265.

Yet no one has scrutinized the paths that led women into Ontario Hospitals and the laws that enabled the process. There has been a misconception about *The Female Refuges Act* as being the sole gendered statute responsible for the institutionalization (and incarceration) of women. In addition, patient narratives are essential to the appreciation of the wide range of diverse pathways that led to women's institutionalization, plus the use of specific statutes to ensure continued and lengthy segregation of women who behaved outside the norms of society. This is why this research is necessary, because it is not just about the law, but also the application of the law and its resultant effects.

Chapter One details my research methodologies of historical statute analysis and archival research. I delve into the limitations and hurdles of researching patient files, including destruction of documents and attending youth court for a court order to receive access to restricted jail and correctional files.

Chapter Two analyzes the six main statutes that were the basis for incarceration and/or institutionalization of women into Cobourg, specifically the *Juvenile Delinquents Act*, *The Industrial Schools Act*, *The Hospitals for the Insane Act*, the *Criminal Code* (limited to vagrancy, insanity, and escapes), *The Andrew Mercer Reformatory Act*, and *The Female Refuges Act*. To illustrate my point that statutes cannot be read and applied in isolation, I have created two flow charts of laws, one for 1919 and the other for 1925, that visually demonstrate the interrelationship of statutes, both federally and provincially.

Chapter Three describes the four institutions, plus the Toronto Women's Police Court, where women who were ultimately institutionalized in Cobourg, were generally committed or incarcerated. With the exception of Cobourg, all facilities were located in Toronto and the

surrounding area. They included the Alexandra Industrial School, the Toronto Industrial Refuge, and the Andrew Mercer Reformatory.

Chapter Four applies the laws discussed in Chapter Two, by providing narratives about twelve women's paths to institutionalization into Cobourg and the statutes that were utilized. This chapter is divided into three sections, women who were institutionalized in Cobourg pre-1919, 1919-1925, and post-1925. These time periods are consistent with the major revisions in laws regarding admissions and transfers into various institutions.

Chapter Five is the conclusion of this thesis and provides the synopsis of the sentencing and/or committal terms, as the case may be, for the women and their actual duration of institutionalization. This chapter demonstrates the complicated interrelationship of the statutes which enabled the process of committing and transferring women into consecutive institutions, resulting in more severe and lengthier confinements than would have followed if detained under the provisions in the *Criminal Code*.

Chapter One

Research Methodologies

My research methodologies incorporated historical statute analysis, with archival research of inmate and patient files and jail registers. Descriptions of both methodologies are detailed below.

Historical Statute Analysis

To determine which statutes to analyze, I reviewed patient and inmate files to identify under which statute(s) and section(s) an individual was incarcerated or institutionalized. In most cases, this information was not available. I created a spreadsheet of patients and their information, took note of institutions where they were previously incarcerated or institutionalized, and the offence for which they were convicted or committed (if known). I then began researching any statutes that were specific to certain institutions, such as *The Andrew Mercer Reformatory Act*, plus the *Criminal Code* sections regarding vagrancy, insanity, and escapes. I examined all revisions and amendments of the following statutes that encompassed my timeline of 1902-1935: the *Juvenile Delinquents Act*, *The Industrial Schools Act*, *The Hospitals for the Insane Act*, the *Criminal Code*, *The Andrew Mercer Reformatory Act*, and *The Female Refuges Act*. I also studied Acts that were referred to in the six aforementioned statutes. I recorded any significant revisions over the years regarding admissions and transfers to other facilities. I created flow charts of the integrated laws that were in force in both 1919 and 1925 to

visually understand the revisions. These flow charts are included in Chapter Two, The Legislation.

This Masters thesis is not a compendium of laws that the courts were able to use at their discretion to detain women, although it is a subject worthy of exploration. The statutes noted in this paper are only the most relevant Acts that I have identified which were used to commit and institutionalize the women who were confined in Cobourg.

Archival Research

I elected to cull through the Cobourg patient files because it was an institution that opened its doors in 1902 solely to women.¹⁵ In order to gain access to these restricted records held by the Archives of Ontario, I entered into a research agreement with the Information and Privacy Unit. The strength of acquiring access to this source was the viewing of non-redacted historical files with names, dates, and places, amongst other pertinent information that I could cross-reference with other documents to verify claims. However, the research agreement stipulated conditions regarding access, including the necessity of anonymizing patient names and personally identifying information. I ultimately signed multiple research agreements with the Archives of Ontario and received access to over fifty restricted record series, including patient files.

¹⁵ Archives of Ontario, Series RG 10-290, Cobourg Asylum Patient Registers; Archives of Ontario, Series RG 29-58, D'Arcy Place Residents' Case Files. Archives of Ontario is hereinafter referred to in footnotes as ("AO").

I reviewed all available patient registers and files of women admitted into Cobourg between 1902 and December 31, 1935.¹⁶ I created a spreadsheet of categories including, but not limited to, patients' names, patient numbers, whether admitted by warrant or certificate, date of admission to Cobourg, date of initial admission, if transferred from another institution, which institution(s), date of birth, age at admission, reason for committal, committed under which statute, country of birth, race, death/discharge/elopement/deportation date, marital status, children, and diagnosis.

There were limitations to this archival research methodology due to destruction and loss of documents, and multi-person recording and retention of information. Not every file provided all the data that I was seeking. Some files were woefully thin and only proffered a name and patient number. In some cases, this was a result of patients transferred to other institutions and their entire file accompanied them. There was also a purging of file contents in 1955. One of the people tasked with the destruction of materials wrote on the inside of a few patient file folders, "discards made according to departmental instructions of November, 1955."¹⁷ This eradication of documents left gaping holes in basic information.

In addition, I discovered that not all of the data in a file was consistent throughout the file.¹⁸ An example is information input into the Ontario Hospital registration form. The type of

¹⁶ Only microfilmed patient registers were available between 1902 and 1916. For the years 1920 to 1935, I reviewed the original hard copy patient files.

¹⁷ As Barbara Craig has noted, many record series have not survived and it is difficult to ascertain what the file retention schedule was for hospitals. See Barbara Craig, "Hospital Records and Record-Keeping, c. 1850-c.1950 Part 1: The Development of Records in Hospitals," *Archivaria*, no. 29, Winter 1989-90, 64.

¹⁸ Barbara Craig has written two highly informative articles that delve into the hurdles of researching historical patient files from Ontario hospitals and the record-keeping standards that evolved from the mid-1800s to the mid-1900s. See Barbara Craig, "Hospital Records," Parts 1 and 2.

admission was worded “warrant or certificate” but a few patients were listed as institutionalized via a warrant and on other forms by a certificate. One explanation may have been the patient was admitted on multiple occasions by the family, or at other times, through a warrant of committal. Another reason may have been due to admissions staff misinterpreting a transfer warrant (transfers between institutions) as a warrant of committal. To add complexity, inmates that were institutionalized through conviction in juvenile (youth) court were admitted by certificate, not via a warrant of committal.¹⁹ Further, patients incarcerated or institutionalized at a reformatory or industrial refuge through a warrant of conviction or a warrant of committal from the court could have subsequently been admitted to an Ontario Hospital by certificate.

A profound limitation in this research was the over one hundred missing patient files from the Cobourg record series from 1920 onwards.²⁰ I created a list of patient file numbers that were missing, and then cross referenced these with the patient file numbers in the Cobourg register index.²¹ The index was an alphabetical listing of patients (including their patient numbers) of all discharges and deaths in Cobourg from 1920-1955. For each missing patient file

¹⁹ According to the *Juvenile Delinquents Act*, S.C. 1908, c. 40, ss. 3, 31, a child’s offence was “to be known as a delinquency” and the child should not be treated as a criminal but rather a “misdirected and misguided child, and one needing aid, encouragement, help and assistance.” This is discussed in further detail in The Legislation chapter.

²⁰ To find the missing case files, multiple members of the Archives of Ontario staff searched electronically and physically but to no avail. It was suggested that I contact the Ministry of Community and Social Services on the chance that certain Cobourg files had been sent to that department because of being recalled. Many phone calls, emails, and a Freedom of Information request later, the Access and Privacy Office of that Ministry responded with a letter that stated “I consulted with Ministry employees in the relevant branches regarding the nature, approximate volume and contents of the records that you have requested. Our initial search has identified approximately twenty (20) files that may be responsive to your request. (. . .) Based on our preliminary search, I estimate that the total fee to process your request will be approximately \$14,460.00. (. . .) Before you make your decision regarding whether or not to proceed, please be advised that access to many of these records may be denied s. 21 - Personal Information. Other sections of the Act may also be relevant.” I declined to proceed.

²¹ AO, RG 29-58.

number that I found in the index, I inserted the corresponding patient name into my Cobourg missing patient files list. I then cross referenced the 1921 census of Canada,²² specific to the Cobourg inmate census, and inserted any additional names into the missing patient file list. The census also provided the country of birth and in some instances, the date of arrival into Canada if foreign-born. It must be noted that the census was only as accurate as the census taker's inputs.

I had also taken note that there was sometimes a bundling of a patient's multiple admissions (with multiple patient file numbers) into the most recent intake file. Due to the fact that I had chosen to only review admission records up to December 31, 1935, I was unable to ascertain if any of the missing patient files were of patients that were admitted to Cobourg after 1935.

After I assembled the Cobourg master patient list, I discovered some patients, as mentioned above, were admitted on multiple occasions and were provided with different file numbers upon each admission. I therefore deleted names that were clearly duplicates. I also opted to treat each missing patient file as a unique patient. I concluded that between 1902 and December 31, 1935, there were 1310 unique patients admitted into Cobourg. Of these 1310 patients, there were 119 women institutionalized in Cobourg whom I was unable to ascertain any information. This number included women whose patient files were missing, and as previously mentioned, certain files were purged of their contents leaving behind only a patient name and number.

There were 1191 patients of whom I had at least basic information. I divided these patients into two groups, women who were institutionalized voluntarily or involuntarily via

²² Library and Archives Canada, Series RG 31, Census of Canada, 1921. Library and Archives Canada is hereinafter referred to in footnotes as ("LAC").

certificate on the application of family or friends, and women who were previously convicted through the courts, either via a summary conviction offence, committed as a lunatic, or as a juvenile delinquent. Although I did not have sufficient information to categorize all of the 1191 patients into these two groups, I was able to list no less than 350 patients who had been convicted or committed through the courts and confined to a correctional facility or other institution until ultimately institutionalized in Cobourg. This was at least thirty percent of the women who had been in Cobourg. Although the terminology is not one hundred percent accurate, for the purpose of distinguishing this group, I will refer to them as the ‘sentenced women’.

I further divided the sentenced women into three groups according to their date of admission into Cobourg, pre-1919, 1919-1925, and post-1925. I reviewed each of the files to ascertain if a statute was noted regarding the sentenced women’s incarceration/institutionalization or if there was an explanation as to their committal. It was rare to find a mention of a statute during any time frame, but by the mid to late 1920s, reasons for committal were routinely incorporated into the patient file. In addition, I searched for any mentions of committal to an industrial school, an industrial refuge, or to the Mercer Reformatory.

Jail and Correctional Records

Jail and correctional records were vital to investigate how and why a sentenced woman was institutionalized. However, access to these records is currently very difficult and time-consuming. Although jail and correctional records are in the control of the Archives of Ontario, it

was necessary for me to obtain a court order from a youth court judge to access these restricted records. The *Youth Criminal Justice Act*, section 126, states:²³

126. When records originally kept under sections 114 to 116 are under the custody or control of the Librarian and Archivist of Canada or the archivist for any province, that person may disclose any information contained in the records to any other person if
- (a) a youth justice court judge is satisfied that the disclosure is desirable in the public interest for research or statistical purposes; and
 - (b) the person to whom the information is disclosed undertakes not to disclose the information in any form that could reasonably be expected to identify the young person to whom it relates.

There was no process outlined by the Archives of Ontario about how to acquire a court order because requesting jail and correctional records under section 126 was untested. Each individual involved in the court order application was unsure how to proceed, including the lawyers from the Ministry of Government and Consumer Services, whose client is the Archives of Ontario. Working with the above mentioned lawyers, I explained why I needed the records, submitted multiple documents to them including my thesis proposal and positive ethics reviews from both York University's Faculty of Graduate Studies and the Research Ethics Office, and agreed to all privacy provisions as detailed in the Archives of Ontario research agreements. I then received a letter of support from the lawyers which I included as an exhibit in my Application for a Hearing in youth court to gain access to specific jail and correctional records.

My affidavit and all exhibits in my Application were sworn before a Commissioner for Taking Oaths. I served my Application on the Crown, the Court Administrative Office, and the Ministry of Government and Consumer Services. I attended the Ontario Court of Justice youth

²³ *Youth Criminal Justice Act*, S.C. 2002, c. 1, s. 126.

court on the Application Hearing date and made my submission to the judge, and was ultimately successful in my Application despite set-backs throughout the nine month process.

Unfortunately, I was unable to request a blanket requisition to access all jail and correctional records, so I had to make a calculated guess as to which specific records would be most relevant for my needs. I received access to the Alexandra Industrial School files, the Mercer Reformatory files, the Concord Industrial Farm files, the Toronto jail registers, and a few other specific jail registers. I have been unable to review jail registers for all the sentenced women because I do not have access to all the jail registers. I also have not discovered who, if any institution, has the inmate files for the Toronto Industrial Refuge, or if any files still exist.²⁴ Another roadblock is microfilming of records. An example is the series for the Industrial Refuge for Girls which is in the custody and control of the Archives of Ontario, and the record series ends at 1905, therefore they should be open to the public. However, the series has been microfilmed and is included on the same microfilm as other record series that are restricted access, only available by court order.

The Women

I identified certain women from each time period, not necessarily for them to be representative cases, but rather distinct examples of how the courts and institutions utilized certain statutes in a woman's detention, and how the statutes were revised over the decades and its impact on inmates and patients. I ultimately chose four women who were institutionalized in

²⁴ Email enquiries to Belmont House have gone unanswered. The Toronto Industrial Refuge was colloquially referred to as the Belmont Industrial Refuge because it was located on Belmont Street in Toronto.

Cobourg previous to 1919, two women who were detained between 1919 and 1925, and six women from 1926 to 1935.

I created a flow chart for each of the women which identified their path from court to ultimately, Cobourg. I took note of all documents that were included in the patient file from Cobourg, and if the woman had been transferred to or from other Ontario Hospitals, I attempted to review those patient files. If the woman had been transferred from the Alexandra Industrial School or the Mercer Reformatory, I reviewed those inmate records. As previously mentioned, I have been unable to discover who, if anyone, has the Toronto Industrial Refuge case files, therefore, there is a gap in information related to the refuge.

Unfortunately, court records have been repeatedly purged over the years, therefore, I have had to resort to reviewing Toronto jail registers. A shortcoming of this methodology is if someone was convicted but not incarcerated, there would be no record of that person in the jail register. Nevertheless, if a woman had been convicted in a Toronto court, I reviewed the Toronto jail registers to identify her offence and the sentencing by the court.

In accordance with my agreements with the Archives of Ontario and my court order, I have anonymized all patient names, including their family members, and any of their personally identifying information. An upshot of this anonymization is that some bibliographic sources are somewhat vague. I will also be using historical terminology to ensure contemporary accuracy, although the words may be offensive to our current sensibilities.

Chapter Two

The Legislation

This thesis focusses on the period between and inclusive of 1902 through 1935; therefore, I have reviewed both federal and provincial statutes that were in force during this time, but have not expanded my review outside this time frame.²⁵ The analysis of the statutes, for the most part, was restricted to admissions and transfers into institutions in order to illustrate the pathways from a courtroom to an Ontario Hospital. I analyzed six statutes, the *Juvenile Delinquents Act*, *The Industrial Schools Act*, *The Hospitals for the Insane Act*, the *Criminal Code* (vagrancy, insanity, and escapes sections), *The Andrew Mercer Reformatory Act*, and *The Female Refuges Act*. While acknowledging that there were additional Acts relevant to this thesis, these six statutes, in particular, were the basis for the incarceration and/or institutionalization of women into Cobourg.

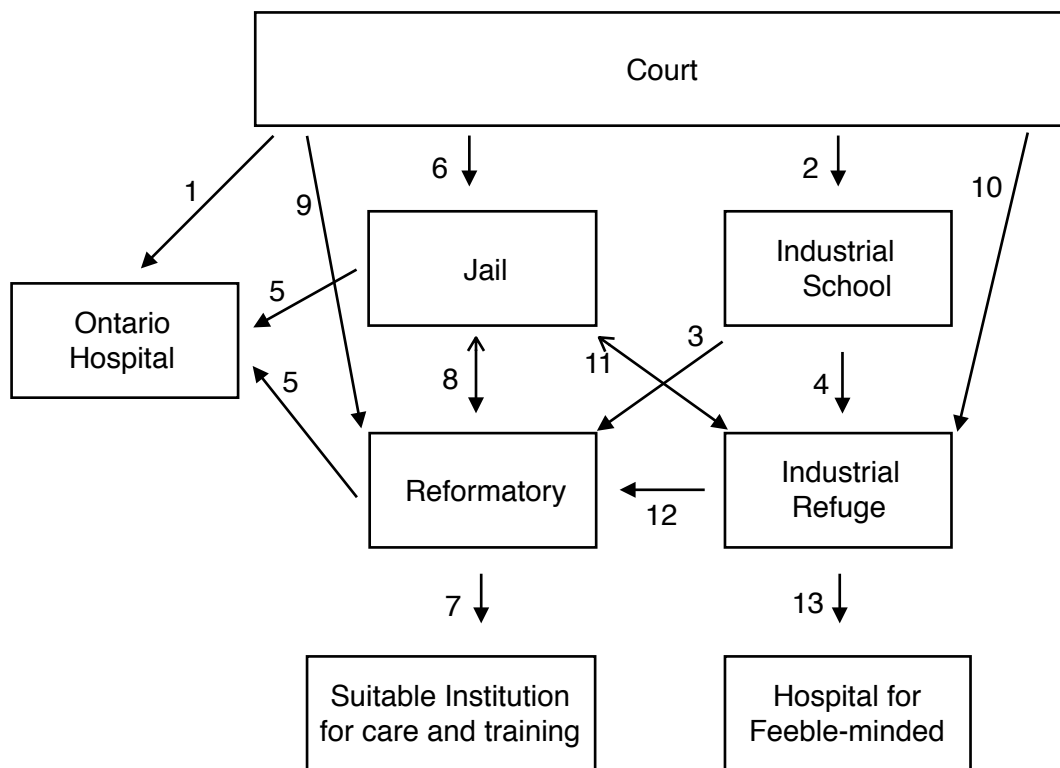
Analyzing a specific Act and its revisions throughout the years allows one to gain an understanding of its nuances. Ena Chadha's review of the *Immigration Act* and its modified stances on admission into Canada of individuals with mental disabilities is a splendid example.²⁶ But when creating patient narratives, application of a particular Act requires review of other statutes (and regulations) that impinge upon that Act. Both *The Female Refuges Act* and *The Andrew Mercer Reformatory Act* are excellent examples of statutes that cannot be read or applied in isolation. Read together with other Acts they can become complicated and confusing, not only

²⁵ I have reviewed relevant Statutes of Ontario ("S.O."), Revised Statutes of Ontario ("R.S.O."), Statutes of Canada ("S.C."), and Revised Statutes of Canada ("R.S.C."). Revised Statutes are only consolidations of laws and their amendments. They are not new laws.

²⁶ Ena Chadha, "'Mentally Defectives' Not Welcome: Mental Disability in Canadian Immigration Law, 1859-1927," *Disability Studies Quarterly*, vol. 28, no. 1, Winter 2008.

to the average reader, but also to the magistrates who were entrusted to render proper dispositions. It is important to note that unless the statute and its corresponding section number was written in the case file, or the patient file, or on the Warrant of Committal, it is difficult and sometimes impossible to determine under which law a woman was dealt. To illustrate my point, below is a flow chart of admissions and transfers to various facilities, along with the legend based on the statutes in 1919.

1919 Flow Chart of Statutes

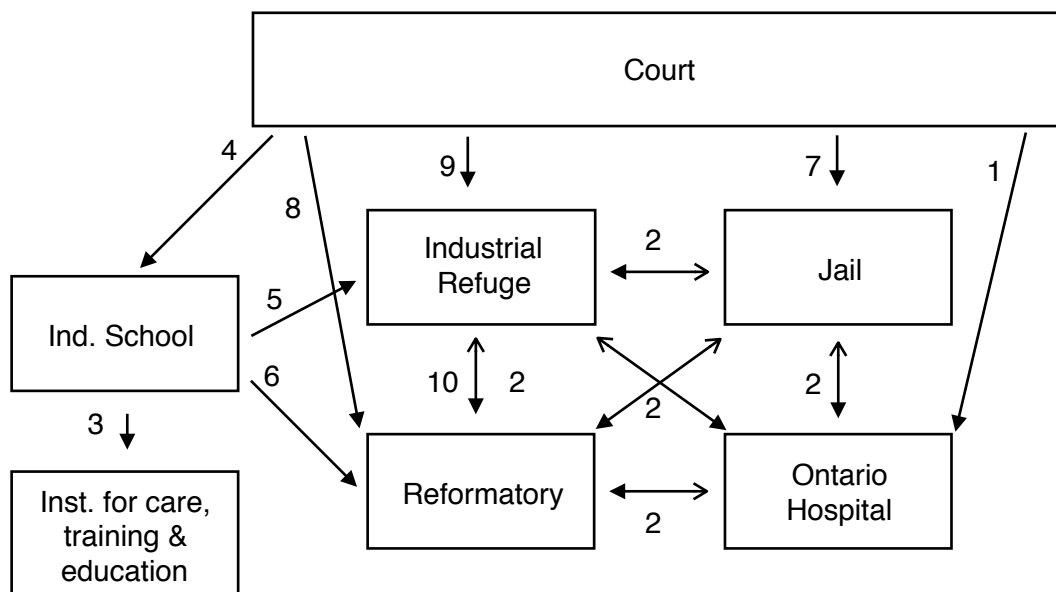


1. *The Hospitals for the Insane Act*, R.S.O. 1914, c. 295, ss. 14, 15.
2. *The Industrial Schools Act*, R.S.O. 1914, c. 271, s. 10(4).
3. *Prisons and Reformatories Act*, R.S.C. 1906, c. 148, ss. 23, 26.
4. *The Female Refuges Act*, S.O. 1919, c. 84, s. 3(2).
5. *The Hospitals for the Insane Act*, R.S.O. 1914, c. 295, s. 23;
Criminal Code, R.S.C. 1906, c. 146, s. 970.
6. *Criminal Code*, R.S.C. 1906, c. 146, s. 239.

7. *The Public Institutions Amendment Act, 1919*, S.O. 1919, c. 83, s. 10.
8. *The Andrew Mercer Reformatory Act*, R.S.O. 1914, c. 288, ss. 8, 10(1);
Prisons and Reformatories Act, S.C. 1916, c. 21, s. 4.
9. *The Andrew Mercer Reformatory Act*, R.S.O. 1914, c. 288, s. 9(1);
Prisons and Reformatories Act, S.C. 1913, c. 39, ss. 2, 3.
10. *The Female Refuges Act*, S.O. 1919, c. 84, ss. 3(1), 16(4).
11. *The Female Refuges Act*, S.O. 1919, c. 84, s. 3(1);
Houses of Refuge for Females in Ontario, S.C. 1894, c. 60, ss. 2, 4;
Prisons and Reformatories Act, R.S.C. 1906, c. 148, ss. 71, 72.
12. *The Female Refuges Act*, S.O. 1919, c. 84, s. 6;
Prisons and Reformatories Act, R.S.C. 1906, c. 148, ss. 23, 26.
13. *The Female Refuges Act*, S.O. 1919, c. 84, s. 10(4).

Laws were constantly being revised, which meant one had to be aware of the latest changes and how that could impact a conviction, a sentence, or a committal. Below is the flow chart and legend for the statutes by 1925.

1925 Flow Chart of Statutes



1. *The Hospitals for the Insane Act*, R.S.O. 1914, c. 295, ss. 14, 15.
2. *The Prisons and Public Charities Inspections Act, 1925*, S.O. 1925, c. 81, s. 3.
3. *The Industrial Schools Act*, S.O. 1925, c. 79, s. 2.
4. *The Industrial Schools Act*, R.S.O. 1914, c. 271, s. 10(4).
5. *The Female Refuges Act*, S.O. 1919, s. 84, s. 3(2).
6. *Prisons and Reformatories Act*, R.S.C. 1906, c. 148, ss. 23, 26.

7. *Criminal Code*, R.S.C. 1906, c. 146, s. 239.
8. *The Andrew Mercer Reformatory Act*, R.S.O. 1914, s. 288, s. 9(1);
Prisons and Reformatories Act, S.C. 1913, c. 39, ss. 2, 3.
9. *The Female Refuges Act*, S.O. 1919, c. 84, s. 3(1).
10. *Prisons and Reformatories Act*, R.S.C. 1906, c. 148, ss. 23, 26.

Definitions

I have used explicit legal terminology in this thesis to avoid ambiguity. “Arrested” means law enforcement has physically detained an individual. “Convicted” means the magistrate has found the individual guilty of a specific offence, such as vagrancy or theft. “Sentenced” means the punishment after being found guilty, perhaps a fine of fifty dollars or six months in jail. “Indeterminate sentence” means a sentence of undetermined length, although for provincial offences it is usually no more than two years less one day. “Incarcerate” means to imprison an individual, this would include imprisonment in a jail, jail farm, or reformatory. “Committal/Commitment” in this thesis means to send an individual to an Ontario Hospital, a girl’s industrial school, or a female industrial refuge. To give an example of the above definitions, a woman could be arrested for drunkenness, convicted of vagrancy, and sentenced to an indeterminate term of two years less a day, to be served in the Andrew Mercer Reformatory.

***The Hospitals for the Insane Act*²⁷**

In accordance with my time frame, the first version of the Act that I reviewed was entitled *An Act Respecting Lunatic Asylums and the Custody of Insane Persons*, enacted in 1897, and I studied all subsequent revisions until 1935. I did not analyze the overhauled and

²⁷ The name of this Act was revised over the years, but I chose *The Hospitals for the Insane Act* for my heading as this citation was in use from 1913 to 1935.

consolidated *The Mental Hospitals Act* that came into force on August 1, 1935, because virtually all patients whose files I reviewed were institutionalized in Cobourg prior to this date and my focus was on their path to admittance.²⁸

Physician's Certificates and Definitions

It is helpful to explain Physician's Certificates before analyzing the chronology of the law, because the Certificates included medico-legal definitions and was the pivotal document for the admission of patients. The Certificate was appended to *The Hospitals for the Insane Act* as a template for the medical practitioner to fill out and submit after examining an individual.²⁹ The credentials necessary to complete a Physician's Certificate was to have been "a legally qualified medical practitioner"[.]³⁰ This was a concern for the Honourable Frank Egerton Hodgins, who was the author of the final report for the Royal Commission on the Care and Control of the Mentally Defective and Feeble-minded in Ontario, 1919:

In all the acts of this class the words used for examining or certifying physicians are either "physician" or "legally qualified medical practitioner." No provision is made that the physician or medical practitioner shall have any training or qualification as an alienist, or even that he shall know anything about it. It is high time that this defect was remedied and special provision made for proper examination in all cases of suspected mental defect by those who have specialized in it.³¹

²⁸ *The Mental Hospitals Act*, 1935, S.O. 1935, c. 39.

²⁹ A copy of the Physician's Certificate template from the 1914 *Hospitals for the Insane Act* is attached to this thesis as Appendix "A". This version was chosen because it was the most legible of the 1897, 1913, and 1914 options.

³⁰ *The Hospitals for the Insane Act*, R.S.O. 1914, c. 295, s. 7, Form 1.

³¹ Ontario Royal Commission. *Report on the Care and Control of the Mentally Defective and Feeble-minded in Ontario*. A.T. Wilgress, 1919, 122. An alienist was a doctor who specialized in mental health.

In the Certificate, the medical practitioner had to certify an individual as insane or an idiot, (the two options in the certificate), by observation and from “other facts (if any) indicating insanity, communicated to me by others[.]”³² However, Ontario legislation did not define insanity or idiocy.³³ To complicate matters, in a 1930 case, Mr. Justice William Edward Middleton directed that when a female patient was afflicted with moral insanity, her name in the Certificate should be inserted not only before ‘is an idiot’, but also ‘is insane’ because “the Law regarded such a patient as insane because she was not sane or normal.”³⁴

According to the Cobourg patient files, various physicians included in their Certificates the terms ‘lunatic’, ‘idiot’, ‘imbecile’, ‘feeble-minded’, and ‘moral imbecile’, amongst others. This suggests that the terms ‘insanity’ and ‘idiocy’ in the Physician’s Certificate were not adequate to capture all mental (and moral) health situations. There were no definitions of the above in Ontario legislation with the exception of ‘lunatic’, but the definition(s) was confusing. A lunatic, as defined in *An Act Respecting Lunatic Asylums and the Custody of Insane Persons*, meant “any insane person, whether found so by inquisition or not[.]”³⁵ whereas *The Lunacy Act* defined a lunatic as “an idiot and a person of unsound mind.”³⁶

³² This requirement did not change until at least 1935.

³³ While a discussion regarding psychiatric diagnostic terminology is outside the scope of this thesis, it is important to analyze the legal definitions (and the lack thereof) for mental health.

³⁴ This quote was from a patient file in which the deputy provincial secretary, Harry Robbins, was explaining to the superintendent of the Mercer the proper completion of the certificate. I believe the case that Middleton referred to was that of Bowyer (re): [1930] O.J. No. 58.

³⁵ *An Act Respecting Lunatic Asylums and the Custody of Insane Persons*, R.S.O. 1897, c. 317, s. 2.

³⁶ *The Lunacy Act*, S.O. 1909, c. 37, s. 2(e).

The Royal Commission, (mentioned previously), attempted to adopt legal definitions for Ontario by looking to the United Kingdom's *Mental Deficiency Act, 1913*.³⁷ However, there was an acknowledgment from the Commission that there was "difficulty experienced in England in the administration of the *Mental Deficiency Act, 1913*, owing to its wording of the definition of the 'feeble-minded.'"³⁸ The definitions were as follows:

The following classes of persons who are mentally defective shall be deemed to be defectives within the meaning of this Act:

- a) Idiots; that is to say, persons so deeply defective in mind from birth or from an early age as to be unable to guard themselves against common physical dangers;
- b) Imbeciles; that is to say, persons in whose case there exists from birth or from an early age mental defectiveness not amounting to idiocy, yet so pronounced that they are incapable of managing themselves or their affairs, or, in the case of children, of being taught to do so;
- c) Feeble-minded persons; that is to say, persons in whose case there exists from birth or from an early age mental defectiveness not amounting to imbecility, yet so pronounced that they require care, supervision, and control for their own protection or for the protection of others, or, in the case of children, that they by reason of such defectiveness appear to be permanently incapable of receiving proper benefit from the instruction in ordinary schools;
- d) Moral imbeciles; that is to say, persons who from an early age display some permanent mental defect coupled with strong vicious or criminal propensities on which punishment has had little or no deterrent effect.³⁹

Other Ontario legislation added to the confusing terminology. *The Houses of Refuge Act* in 1912 and *The Female Refuges Act* in 1913 were amended to reference 'feeble-minded' women (of which there was no legal definition).⁴⁰ The wording of the sections from the two Acts was very similar. Below is the section from *The Female Refuges Act*:

³⁷ *Mental Deficiency Act, 1913*, 3 & 4 Geo. 5, ch. 28.

³⁸ Royal Commission 46.

³⁹ *Mental Deficiency Act, 1913*, 3 & 4 Geo. 5, ch. 28, s. 1.

⁴⁰ *The Houses of Refuge Act*, S.O. 1912, c. 82, s. 15; *The Female Refuges Act*, S.O. 1913, c. 79, s. 10.

Where a legally qualified medical practitioner, having the care of the health of the inmates of an Industrial Refuge, certifies that an inmate on account of natural imbecility is so feeble-minded as to render it probable that she would be unable to take care of herself if discharged from the refuge, she shall not be discharged until such medical practitioner, with the approval of the Inspector, orders her discharge.⁴¹

To sum up, Ontario legislation either did not define mental health terminology, or when it did, there was no consistent definition, and further, the definitions (and at time, judges) conflated insanity with idiocy. It was not until *The Mental Hospitals Act, 1935* that provided definitions for ‘mental defective’, ‘mental deficiency’, ‘mentally ill person’, and ‘mental illness’.⁴²

Chronology of the Statute

In 1897, the only direct route to an asylum was admission via certificate. Certificate cases were commonly situations in which a third party requested admission to an asylum on behalf of an individual. The courts were not involved. To have been admitted by certificate, two medical practitioners would have each completed a Certificate of Medical Practitioner in Ordinary Cases after examining the individual, confirming her insanity.⁴³ These certificates were “sufficient authority” to transfer the individual from her home (or wherever she was located) to an asylum, and to detain her therein.⁴⁴

The other form of admission into an asylum was by an order of the Lieutenant-Governor.⁴⁵ If an individual “is, or is suspected and believed (. . .) to be insane and dangerous to

⁴¹ *The Female Refuges Act*, S.O. 1913, c. 79, s. 10.

⁴² *The Mental Hospitals Act, 1935*, S.O. 1935, c. 39, s. 2(k), (l), (m), (n).

⁴³ *An Act Respecting Lunatic Asylums and the Custody of Insane Persons*, R.S.O. 1897, c. 317, s. 7.

⁴⁴ *An Act Respecting Lunatic Asylums and the Custody of Insane Persons*, R.S.O. 1897, c. 317, s. 9.

⁴⁵ *An Act Respecting Lunatic Asylums and the Custody of Insane Persons*, R.S.O. 1897, c. 317, s. 7.

be at large, and has exhibited a purpose of committing some crime”, she could have been apprehended via a Justice’s warrant.⁴⁶ (It is important to note that no crime had to have been committed.) She would have been committed to a jail or to other “safe custody” until she was brought before a Justice who had made enquiries as to the prisoner’s sanity (and financial circumstances) by questioning her friends and family.⁴⁷ The judge was also required to complete a Schedule 2, appended to the Act, which detailed the individual’s mental health and behaviour.⁴⁸

If after reasonable inquiry has been made by the Justice he is satisfied that the prisoner is insane and dangerous to be at large, the Justice shall commit (Form D) the prisoner to the common gaol of the territorial division, there to remain until the pleasure of the Lieutenant-Governor is known, or until the prisoner is discharged by law.⁴⁹

In this situation, the Lieutenant-Governor could order the prisoner to an asylum and no certificates from medical practitioners were necessary.⁵⁰

If a jail surgeon believed an individual who had been imprisoned in a jail for a Provincial offence was insane, the surgeon along with another medical practitioner would have examined the prisoner and each completed a Form G, Certificate of Medical Practitioner Where Prisoner is Insane.⁵¹ Contemporaneously, the judge would have made enquiries as to the financial means of the prisoner, and completed a Form H, Certificate of Judge or Justice When Prisoner is Insane,

⁴⁶ *An Act Respecting Lunatic Asylums and the Custody of Insane Persons*, R.S.O. 1897, c. 317, ss. 12, 13.

⁴⁷ *An Act Respecting Lunatic Asylums and the Custody of Insane Persons*, R.S.O. 1897, c. 317, ss. 14, 15.

⁴⁸ *An Act Respecting Lunatic Asylums and the Custody of Insane Persons*, R.S.O. 1897, c. 317, s. 20. A copy of Schedule 2 can be found in Appendix “B” of this thesis.

⁴⁹ *An Act Respecting Lunatic Asylums and the Custody of Insane Persons*, R.S.O. 1897, c. 317, s. 17. The hurdle to be defined as “dangerous to be at large” was a fairly low bar.

⁵⁰ *An Act Respecting Lunatic Asylums and the Custody of Insane Persons*, R.S.O. 1897, c. 317, s. 25.

⁵¹ *An Act Respecting Lunatic Asylums and the Custody of Insane Persons*, R.S.O. 1897, c. 317, s. 27, 33.

and a Schedule 2, the same document as described above.⁵² The Lieutenant-Governor would take into consideration the evidence of insanity from both the judge and the medical practitioners and could order the prisoner's transfer to an asylum.⁵³

The amendment to the Act in 1906 contained a few revisions relevant for our purposes. In 1906, it was no longer necessary for an individual to have "exhibited a purpose of committing some crime" before a justice issued a Warrant for Apprehension of Dangerous Lunatic. The only criteria was a belief that a person was insane and dangerous to be at large.⁵⁴ Further, a new section was added. "Any person apparently insane and conducting himself in a manner which in a sane person would be disorderly may be apprehended without a warrant[.]"⁵⁵ This provided law enforcement with more subjective powers.

When apprehended, no longer were any individuals who were allegedly insane committed to jail. Instead they were "confined in some safe and comfortable place" unless she displayed violent behaviours.⁵⁶ Upon detention, the process became prescriptive. The justice notified two medical practitioners to conduct an examination of the prisoner while the justice made enquiries of friends and family as to the individual's sanity and financial condition, and

⁵² *An Act Respecting Lunatic Asylums and the Custody of Insane Persons*, R.S.O. 1897, c. 317, s. 20, 33.

⁵³ *An Act Respecting Lunatic Asylums and the Custody of Insane Persons*, R.S.O. 1897, c. 317, s. 26, 33.

⁵⁴ *An Act to amend the Act respecting Lunatic Asylums, and the Custody of Insane Persons*, S.O. 1906, c. 61, s. 12.

⁵⁵ *An Act to amend the Act respecting Lunatic Asylums, and the Custody of Insane Persons*, S.O. 1906, c. 61, s. 14.

⁵⁶ *An Act to amend the Act respecting Lunatic Asylums, and the Custody of Insane Persons*, S.O. 1906, c. 61, s. 15. A "safe and comfortable place" was left undefined.

completed a revised Schedule 2 which detailed the individual's mental health, behaviour, and finances.⁵⁷

If the judge was satisfied the prisoner was insane and dangerous to be at large, he forwarded a Certificate of Justice (Form D), the physician's certificates, all depositions, a statement regarding the individual's financial situation, and the completed Schedule 2 to the Inspector of Prisons and Public Charities.⁵⁸ The Inspector, upon receipt of all documents, made arrangements for the prisoner to be transferred to an asylum.⁵⁹

In 1913, the Act was renamed *An Act respecting Provincial Hospitals for the Insane and the Custody of Insane Persons*.⁶⁰ The short title of the Act was cited as *The Hospitals for the Insane Act*, and the 1897 version and the 1906 amendment were repealed.⁶¹ The asylums were no longer designated as asylums, but rather The Hospital for the Insane, Toronto, or whichever hospital one was referring to.⁶²

Admission to a Hospital for the Insane was clearly defined in section 7, which included the new category "voluntary patients":

No person shall be admitted into any hospital, except as a voluntary patient or upon the warrant of the Lieutenant-Governor, without the certificates (Form 1) of two legally

⁵⁷ *An Act to amend the Act respecting Lunatic Asylums, and the Custody of Insane Persons*, S.O. 1906, c. 61, ss. 17, 18. A copy of the revised Schedule 2 is attached to this thesis as Appendix "C".

⁵⁸ *An Act to amend the Act respecting Lunatic Asylums, and the Custody of Insane Persons*, S.O. 1906, c. 61, ss. 21, 22.

⁵⁹ *An Act to amend the Act respecting Lunatic Asylums, and the Custody of Insane Persons*, S.O. 1906, c. 61, s. 22.

⁶⁰ *An Act respecting Provincial Hospitals for the Insane and the Custody of Insane Persons*, S.O. 1913, c. 83.

⁶¹ *The Hospitals for the Insane Act*, S.O. 1913, c. 83, ss. 1, 50. All other amendments to this Act were also repealed.

⁶² *The Hospitals for the Insane Act*, S.O. 1913, c. 83, s. 4.

qualified medical practitioners, accompanied by the family history, in the prescribed form, and the financial and estate history in the prescribed form, and upon notice having been received from the Superintendent of the said Hospital that there is a vacancy for the patient.⁶³

The ‘disorderly person, but apparently insane’ and ‘insane and dangerous to be at large’ categories were included in this Act and were relatively consistent with the previous amendment, including the completion and submission of forms.⁶⁴ Now the Inspector, having received all documents, was to “issue a warrant in the prescribed form for his transfer”, along with arranging for the admission of the individual into a Hospital for the Insane.⁶⁵

Similar to the 1897 Act, the section remained regarding individuals who were determined to be insane while they were imprisoned, excluding those detained in a penitentiary. It is important to note that the category was broadened to include not only persons imprisoned for a Provincial offence, or “imprisoned for safe custody charged with an offence”, but also “imprisoned for not finding bail for good behaviour or to keep the peace[.]”⁶⁶ This revised wording was practically verbatim from section 970 of the 1906 *Criminal Code*.⁶⁷

This section of *The Hospitals for the Insane Act* must be read together with section 970 of the 1906 *Criminal Code*. *The Hospitals for the Insane Act* was explicit pertaining to “an offence under the authority of any of the statutes of Ontario.”⁶⁸ The *Criminal Code* referenced ‘an

⁶³ *The Hospitals for the Insane Act*, S.O. 1913, c. 83, s. 7. According to section 12, a voluntary patient was one who applied on their own behalf to be admitted to the hospital.

⁶⁴ *The Hospitals for the Insane Act*, S.O. 1913, c. 83, ss. 13-20.

⁶⁵ *The Hospitals for the Insane Act*, S.O. 1913, c. 83, s. 20(2). It is unclear whether the warrant was a Warrant of Committal or a Transfer Warrant.

⁶⁶ *The Hospitals for the Insane Act*, S.O. 1913, c. 83, s. 23.

⁶⁷ *Criminal Code*, R.S.C. 1906, c. 146, s. 970.

⁶⁸ *The Hospitals for the Insane Act*, S.O. 1913, c. 83, s. 23.

offence' which could have been any offence against federal law, including vagrancy.⁶⁹ The combination of *The Hospitals for the Insane Act* and the *Criminal Code* effectively targeted and permitted the institutionalization of individuals who were poor and did not have the money for bail.

The justice and two medical practitioners completed and submitted the requisite forms that confirmed the individual's insanity, to the Inspector.⁷⁰ Upon receipt of all documents, the Lieutenant-Governor could issue a warrant to have the person removed from the jail and committed to a Hospital for the Insane.⁷¹

The Hospitals for the Insane Act was amended in 1916 to allow the admission of "alcoholic habitués" and "drug habitués", either voluntarily or through the court system, and if through the courts, commitment via warrant from the Inspector of Prisons and Public Charities.⁷² In 1919, *The Public Institutions Amendment Act* revised the names for 'Hospitals for the Insane' to The Ontario Hospital, Toronto (or whichever hospital was being referred to).⁷³ In 1925, *The Prisons and Public Charities Inspection Act* allowed for a more fluid movement of inmates/patients between institutions.⁷⁴ Any inspector who was so designated "shall control or direct all admissions to the Reformatory for Ontario, the Andrew Mercer Reformatory for Females, any industrial farm, industrial refuge, common or district gaol, or to **any Ontario**

⁶⁹ *Criminal Code*, R.S.C. 1906, c. 146, s. 970. The *Criminal Code* will be examined in the *Criminal Code* section.

⁷⁰ *The Hospitals for the Insane Act*, S.O. 1913, c. 83, s. 20.

⁷¹ *The Hospitals for the Insane Act*, S.O. 1913, c. 83, s. 23. This exact section and direction is also found in the *Criminal Code*, R.S.C. 1906, c. 146, s. 970.

⁷² *An Act to amend The Hospitals for the Insane Act*, S.O. 1916, c. 64.

⁷³ *The Public Institutions Amendment Act, 1919*, S.O. 1919, c. 83, s. 2.

⁷⁴ *The Prisons and Public Charities Inspection Act, 1925*, S.O. 1925, c. 81, s. 3.

Hospital, and may from time to time **remove or transfer any inmate from any said institution to any other said institution**. (Emphasis mine.) As referenced in *The Andrew Mercer Reformatory Act* and *The Female Refuges Act* later in this thesis, women in 1919 could be transferred to the Ontario Hospital, Orillia (previously known as the Hospital for the Feeble-Minded) under certain conditions. *The Prisons and Public Charities Inspection Act* allowed for the transfer of women not only to the Ontario Hospital, Orillia, but to **any** Ontario Hospital.

The Hospitals for the Insane Act was repealed in 1935 and replaced with *An Act respecting Mental Hospitals and Schools*,⁷⁵ its short title was *The Mental Hospitals Act, 1935*.⁷⁶ As mentioned previously, because of the date of this Act I will not be analyzing it, but I note that this Act completely overhauled the previous statute and began referencing not just ‘insane’ persons, but defined ‘mental defectives’ and ‘mentally ill persons’.⁷⁷

Juvenile Delinquents Act

The *Juvenile Delinquents Act* was a federal statute first enacted in 1908.⁷⁸ It is important to note that this Act was not in force in any province until proclaimed by the legislature of the particular province “after the passing of an Act (. . .) providing for the establishment of Juvenile Courts, or designating any existing courts as Juvenile Courts, and of detention homes for

⁷⁵ *An Act respecting Mental Hospitals and Schools*, S.O. 1935, c. 39, s. 108(a).

⁷⁶ *The Mental Hospitals Act, 1935*, S.O. 1935, c. 39, s. 1.

⁷⁷ *The Mental Hospitals Act, 1935*, S.O. 1935, c. 39, s. 2.

⁷⁸ *Juvenile Delinquents Act, 1908*, S.C. 1908, c. 40.

children.”⁷⁹ In 1910, Ontario enacted *An Act respecting Juvenile Courts* that provided for Juvenile Courts, detention homes, and probation officers.⁸⁰

The preamble of the *Juvenile Delinquents Act* stipulated that children should not be dealt with as criminals but rather “subjected to such wise care, treatment and control as will tend to check their evil tendencies and to strengthen their better instincts[.]”⁸¹ This Act also dealt with adults that contributed to the delinquency of children. Below, I first analyze the Act regarding children, and a separate section follows for adults.

Children

In 1908, a child was defined as “apparently or actually” under sixteen years of age.⁸² A juvenile delinquent was defined as a child who violated the *Criminal Code*, any federal or provincial statute, or any municipal by-law or ordinance, or “who is liable by reason of any other act to be committed to an industrial school[.]”⁸³ In accordance with the preamble, the violations were “to be known as a delinquency[.]”⁸⁴ When a child was arrested, she appeared exclusively in Juvenile Court where the trial was privately held, although it was not necessary for the trial to be in a physical courtroom.⁸⁵ Instead, it could “be held in the private office of the judge or in some

⁷⁹ *Juvenile Delinquents Act*, 1908, S.C. 1908, c. 40, ss. 34, 36.

⁸⁰ *An Act respecting Juvenile Courts*, S.O. 1910, c. 96. I have only mentioned Ontario because Ontario is the focus of this thesis.

⁸¹ *Juvenile Delinquents Act*, 1908, S.C. 1908, c. 40, preamble.

⁸² *Juvenile Delinquents Act*, 1908, S.C. 1908, c. 40, s. 2(a).

⁸³ *Juvenile Delinquents Act*, 1908, S.C. 1908, c. 40, s. 2(c).

⁸⁴ *Juvenile Delinquents Act*, 1908, S.C. 1908, c. 40, s. 3.

⁸⁵ *Juvenile Delinquents Act*, 1908, S.C. 1908, c. 40, ss. 6, 10.

other private room in the court house or municipal building, or in the detention home,”⁸⁶ which was a home designated exclusively for children where they were detained, rather than in a jail with adult criminals.⁸⁷

After the trial, regardless of where the child was committed, whether it was to a children’s aid society, or to an institution for neglected and dependent children, or to an industrial school, she could be dealt with under a provincial statute.⁸⁸ However, the intent of the *Juvenile Delinquents Act* was reinforced in section 31:

This Act shall be liberally construed to the end that its purpose may be carried out, to wit: That the care and custody and discipline of a juvenile delinquent shall approximate as nearly as may be that which should be given by its parents, and that as far as practicable every juvenile delinquent shall be treated, not as a criminal, but as a misdirected and misguided child, and one needing aid, encouragement, help and assistance.⁸⁹

The Act was amended in 1921 to increase the age of a child from sixteen to eighteen years of age.⁹⁰ However, the Governor in Council of the province had to proclaim this revision before it came into force.⁹¹ I have been unable to find any Ontario Act that redefined a child as being under eighteen years of age.⁹² By 1924, the definition of juvenile delinquent was expanded to include not only violations against the *Criminal Code*, federal or provincial statutes, or

⁸⁶ *Juvenile Delinquents Act*, 1908, S.C. 1908, c. 40, s. 10(2).

⁸⁷ *Juvenile Delinquents Act*, 1908, S.C. 1908, c. 40, s. 11.

⁸⁸ *Juvenile Delinquents Act*, 1908, S.C. 1908, c. 40, s. 17.

⁸⁹ *Juvenile Delinquents Act*, 1908, S.C. 1908, c. 40, s. 31.

⁹⁰ *An Act to amend the Juvenile Delinquents Act*, S.C. 1921, c. 37, s. 1.

⁹¹ *An Act to amend The Juvenile Delinquents Act*, S.C. 1921, c. 37, s. 1(2).

⁹² It is worth noting that *The Industrial Schools Acts* from 1914 through 1927 continued to define a child as under sixteen years of age.

municipal by-laws, or who was liable to be committed to an industrial school, but also to any child “who is guilty of sexual immorality or any similar form of vice[.]”⁹³ There were no further substantive revisions to the Act regarding children until after 1935.

Adults

When the *Juvenile Delinquents Act* was first enacted in 1908, it included a section which defined adults who contributed to a child’s delinquency:

Any person who knowingly or wilfully encourages, aids, causes, abets or connives at the commission by a child of a delinquency, or who knowingly or wilfully does any act producing, promoting or contributing to a child’s being or becoming a juvenile delinquent, whether or not such person is the parent or guardian of the child, or who, being the parent or guardian of the child and being able to do so, wilfully neglects to do that which would directly tend to prevent a child’s being or becoming a juvenile delinquent, or to remove the conditions which render a child a juvenile delinquent[.]”⁹⁴

If an adult was found guilty of contributing to a child’s delinquency, he could appear in Juvenile Court upon a summary conviction offence, and could be fined an amount not exceeding five hundred dollars, or imprisonment not exceeding one year, or to both.⁹⁵

The Act was amended in 1921 to increase the period of imprisonment for adults from one year to two years, and added the phrase “or likely to make any child a juvenile delinquent[.]”⁹⁶ In addition, if an adult attempted or succeeded in inducing a child to leave the institution where the child had been placed under this Act, the adult would be liable of a summary conviction offence

⁹³ *An Act to amend the Juvenile Delinquents Act*, 1908, S.C. 1924, c. 53, s. 1.

⁹⁴ *Juvenile Delinquents Act*, 1908, S.C. 1908, c. 40, s. 29.

⁹⁵ *Juvenile Delinquents Act*, 1908, S.C. 1908, c. 40, s. 29.

⁹⁶ *An Act to amend the Juvenile Delinquents Act*, S.C. 1921, c. 37, s. 3.

in Juvenile Court.⁹⁷ The penalty was a fine not exceeding one hundred dollars or imprisonment not exceeding one year, or both. There were no further substantive revisions to this Act regarding adults until after 1935.

The Industrial Schools Act

The definition of an Industrial School in 1897 was “a school in which industrial training is provided, and in which children are lodged, clothed and fed, as well as taught, and which has been certified by the Minister[.]”⁹⁸ According to *The Industrial Schools Act* of 1897, any person could bring any child who was “apparently under the age of fourteen years” before a police magistrate if the child was begging, wandering with no home or guardianship, had no lawful occupation, was destitute, uncontrollable, in circumstances which may have led to an idle and dissolute life, found guilty of petty crime, or “been expelled from school for vicious and immoral conduct.”⁹⁹ If the magistrate had deemed it expedient to send the child to an industrial school, the length of detention was to be specified, although the child could be detained only until she had reached her sixteenth birthday.¹⁰⁰ After the period of detention had elapsed, the child was still legally under the supervision of the industrial school board until the age of eighteen.¹⁰¹

⁹⁷ *An Act to amend the Juvenile Delinquents Act*, S.C. 1921, c. 37, s. 4.

⁹⁸ *The Industrial Schools Act*, R.S.O. 1897, c. 304, s. 2(1). The definition of industrial schools did not change over the years 1887 - 1927. Industrial training could encompass domestic training such as cooking and sewing, along with commercial laundry operations.

⁹⁹ *The Industrial Schools Act*, R.S.O. 1897, c. 304, s. 11(1).

¹⁰⁰ *The Industrial Schools Act*, R.S.O. 1897, c. 304, s. 12.

¹⁰¹ *The Industrial Schools Act*, R.S.O. 1897, c. 304, s. 24.

Once committed to the industrial school, if the child had become incorrigible, or conducted herself in a vicious manner, had escaped or tried to escape, or was uncontrollable, the superintendent of the industrial school could lay a complaint to a judge or police magistrate.¹⁰² The judge/magistrate had the authority to order the child transferred to a reformatory “for an undefined period, not to exceed the period for which he would be otherwise liable to be detained.”¹⁰³

By 1900, the Act was amended to establish a specific time frame for detention. After three years from the date of commitment, the child had to be returned to the custody of her parents, or be apprenticed, or be placed in a foster home.¹⁰⁴ The Act was amended in 1903, but the revisions were only in force for seven years and by 1910 had reverted back to what was essentially the 1897 Act. For the purposes of this thesis, the 1903 amendments are not wholly relevant, except for the revision that any child “apparently under the age of sixteen” (previously fourteen) could be brought before a judge.¹⁰⁵

All previous Acts and amendments were repealed under *The Industrial Schools Act* of 1910.¹⁰⁶ The reasons for any person bringing any child under the age of sixteen before a judge was consistent with the 1897 version, although the inclusion of “a habitual truant” was added to

¹⁰² *The Industrial Schools Act*, R.S.O. 1897, c. 304, s. 15.

¹⁰³ *The Industrial Schools Act*, R.S.O. 1897, c. 304, s. 15.

¹⁰⁴ *An Act Respecting Industrial Schools*, S.O. 1900, c. 56, s. 1(2).

¹⁰⁵ *An Act to amend The Industrial Schools Act and for other purposes*, S.O. 1903, c. 37, s. 2.

¹⁰⁶ *The Industrial Schools Act*, S.O. 1910, c. 105, s. 32.

the list.¹⁰⁷ All cases were now held in private which was to protect the child, but as will be discussed shortly, also led to less oversight.¹⁰⁸

The industrial school board's legal guardianship of the child continued until the child was now twenty-one years of age, rather than eighteen.¹⁰⁹ The section regarding a child being transferred to a reformatory due to incorrigible or vicious behaviour was repealed, however, this section and direction was found under the federal statute the *Prisons and Reformatories Act* under the heading, "Incorrigible Offenders".¹¹⁰ Upon complaint having been laid before a magistrate by an officer in charge of the industrial school (such as the superintendent) that the child needed to be removed to a place with "stricter imprisonment", the magistrate had the authority to order the child transferred to a reformatory school or prison.¹¹¹ Moreover, the magistrate had the authority to punish the child by sentencing her to an additional term of not more than one year imprisonment.¹¹² This section was in force until at least 1935.

Although not included in *The Industrial Schools Act*, the 1913 *Female Refuges Act* provided that "An inmate of an industrial school for girls may in like manner be transferred to and detained in an Industrial Refuge."¹¹³ The length of detention in an industrial refuge was for "an indefinite period not exceeding five years."¹¹⁴ The 1925 amendment to *The Industrial*

¹⁰⁷ *The Industrial Schools Act*, S.O. 1910, c. 105, s. 10(1)(d).

¹⁰⁸ *The Industrial Schools Act*, S.O. 1910, c. 105, s. 10(3).

¹⁰⁹ *The Industrial Schools Act*, S.O. 1910, c. 105, s. 18.

¹¹⁰ *Prisons and Reformatories Act*, R.S.C. 1906, c. 148, ss. 25-27.

¹¹¹ *Prisons and Reformatories Act*, R.S.C. 1906, c. 148, s. 26.

¹¹² *Prisons and Reformatories Act*, R.S.C. 1906, c. 148, s. 27.

¹¹³ *The Female Refuges Act*, S.O. 1913, c. 79, s. 3(2).

¹¹⁴ *The Female Refuges Act*, S.O. 1913, c. 79, s. 3(1).

Schools Act provided that any child who was liable to be sent to an industrial school, could be sent instead to “any other institution approved of by the Lieutenant-Governor in Council as being suitable for the care, training and education of such child.”¹¹⁵ In 1927, the above section was repealed and replaced. The substance of the section was the same, sending a child to another institution, but with the addition of the phrase “under the provisions of *The Boys’ Welfare Home and School Act, 1927*.” It seemed this section was only intended to involve boys in industrial schools, not girls.

The 1927 amendment added two sections that one could infer governmental concerns regarding the admissions to industrial schools. Section 6 stated “Any order made under this Act shall be subject to an appeal to a Divisional Court and may be at the instance of any next friend.”¹¹⁶ Section 7 added the following paragraph:

It shall be the duty of the inspector to peruse the depositions and papers filed with the superintendent and to make full inquiry into the circumstances of every child confined in an industrial school so as to satisfy himself as to the propriety of the order sending the child to the school and he shall report any case calling for special consideration to the Minister.¹¹⁷

The 1931 amendment repealed the three year term of detention, first referenced in 1900, along with the inspector’s inquiry into the circumstances of admission of each child detained in

¹¹⁵ *The Industrial Schools Act, 1925*, S.O. 1925, c. 79, s. 2.

¹¹⁶ *The Industrial Schools Act, 1927*, S.O. 1927, c. 91, s. 6.

¹¹⁷ *The Industrial Schools Act, 1927*, S.O. 1927, c. 91, s. 7.

an industrial school.¹¹⁸ Added to this Act was the option, with the Minister's approval, of sending a child to a training school instead of an industrial school.¹¹⁹

The Act also established the Industrial Schools Advisory Board. The Board was charged to receive the child's commitment order, and acquire a report on the child's "previous social history", "mental intelligence", and "to designate the industrial or other school in which the child is to be placed for training after commitment and the type of instruction suited to the mental intelligence of the child[.]"¹²⁰ The above dovetailed with the 1930 amendment to the *Criminal Code* that authorized the Lieutenant-Governor, upon sufficient evidence that a child detained in an industrial school was "feeble minded or mentally deficient", to transfer that child to a "place of safe keeping".¹²¹

Criminal Code

Three sections of this federal statute are the most relevant for this thesis. The first is the insanity of a person who is imprisoned, the second is under the heading of vagrancy, and the third is the section on escapes. I will review the section on insanity first, analyze vagrancy afterwards, and end with an overview on escapes.

¹¹⁸ *The Industrial Schools Act, 1931*, S.O. 1931, c. 73, ss. 9, 11. The industrial schools were being actively closed by the mid-1930s and the residents were being transferred to other institutions.

¹¹⁹ *The Industrial Schools Act, 1931*, S.O. 1931, c. 73, s. 4.

¹²⁰ *The Industrial Schools Act, 1931*, S.O. 1931, c. 73, s. 17.

¹²¹ *An Act to amend the Criminal Code*, S.C. 1930, c. 11, s. 26. This amendment referred to section 970 of the *Criminal Code*, R.S.C. 1927, c. 36 that referenced the transferring of insane persons to a place of safe-keeping. A place of safe-keeping was known as an Ontario Hospital, according to Attorney General records from 1935 which discussed this topic. AO, RG 4-32, Attorney General Central Registry Criminal and Civil Files.

Insanity

The *Criminal Code* section on insanity was briefly discussed in *The Hospitals for the Insane Acts* portion of this paper. With the 1913 revision to *The Hospitals for the Insane Act*, the two Acts did align their insanity provisions.¹²² Since 1892, the *Criminal Code* had provided:

The Lieutenant-Governor, upon such evidence of the insanity of any person imprisoned in any prison other than a penitentiary for an offence, or imprisoned for safe custody charged with an offence, or imprisoned for not finding bail for good behaviour or to keep the peace, as the Lieutenant-Governor considers sufficient, may order the removal of such insane person to a place of safe keeping[.]¹²³

The definition of prison under the *Criminal Code* included a common jail and reformatory prison, which encompassed the Andrew Mercer Reformatory.¹²⁴

This section remained unchanged until 1930, which I referenced in *The Industrial Schools Act* portion of this chapter. A subsection was added that provided if a person was imprisoned in a reformatory school or industrial school, and it was determined that the individual was “feeble minded or mentally deficient”, the inmate could be transferred to a “place of safe keeping”.¹²⁵ This subsection became significant just prior to the Alexandra Industrial School’s closure in 1936.

¹²² *The Hospitals for the Insane Act*, S.O. 1913, c. 83, s. 23.

¹²³ *Criminal Code*, 1892, S.C. 1892, c. 29, s. 741.

¹²⁴ *Criminal Code*, 1892, S.C. 1892, c. 29, s. 3(u).

¹²⁵ *An Act to amend the Criminal Code*, S.C. 1930, c. 11, s. 26.

Vagrancy

Vagrancy, as defined by the 1892 *Criminal Code*, was an expansive section for incarcerating and institutionalizing women. The main subsections pertaining to women were as follows:

Everyone is a loose, idle or disorderly person or vagrant who-

- (a) not having any visible means of maintaining himself lives without employment;
- (e) loiters on any street, road, highway or public place, and obstructs passengers by standing across the footpath, or by using insulting language, or in any other way;
- (f) causes a disturbance in or near any street, road, highway or public place, by screaming, swearing or singing, or by being drunk, or by impeding or incommoding peaceable passengers;
- (i) being a common prostitute or night walker, wanders in the fields, public streets or highways, lanes or places of public meeting or gathering of people, and does not give a satisfactory account of herself[.]¹²⁶

The above were summary conviction offences and the punishment was “a fine not exceeding fifty dollars or to imprisonment, with or without hard labour, for any term not exceeding six months, or to both.”¹²⁷ A woman could have been convicted of one of the vagrancy provisions of the *Criminal Code* and she could have been sentenced under the *Criminal Code*, or, she could have been sentenced/committed under a different statute such as the *Prisons and Reformatories Act* or *The Female Refuges Act*. The subject of alternative dispositions is analyzed in *The Andrew Mercer Reformatory Act* and *The Female Refuges Act* later in this chapter.

The vagrancy section of the *Criminal Code* was amended in 1900 by expanding subsection (a) to read:

¹²⁶ *Criminal Code, 1892*, S.C. 1892, c. 29, s. 207. S. 207 in its entirety can be found in Appendix “D”.

¹²⁷ *Criminal Code, 1892*, S.C. 1892, c. 29, s. 208. Summary conviction offences were amongst the least serious offences under the *Criminal Code* and were summarily tried by a judge or police magistrate.

not having any visible means of subsistence, is found wandering abroad or lodging in any barn or outhouse, or in any deserted or unoccupied building, or in any cart or wagon, or in any railway carriage or freight car, or in any railway building, and not giving a good account of himself, or who, not having any visible means of maintaining himself, lives without employment.¹²⁸

The 1915 amendment repealed subsections (j) and (k) from the vagrancy section that referred to disorderly and bawdy houses and the frequenting of them, and were moved to a different section of the *Criminal Code*.¹²⁹ There were no further revisions to the vagrancy section of the *Criminal Code* until at least after 1935.

Escapes

While the subject of escapes is worthy of an essay unto itself, only an overview of the topic is presented here. Because this subject does not fit exclusively within any specific Act, including the *Criminal Code* or the *Prisons and Reformatories Act*, it highlights the confusion between various federal and provincial statutes, along with confusion amongst magistrates. This state of confusion also extended to the institutionalization of women in Ontario Hospitals, which is discussed below in The Patients chapter. In this section I have referred to the following statutes, each from 1927: the *Criminal Code*, the *Prisons and Reformatories Act*, *The Andrew Mercer Reformatory Act*, *The Female Refuges Act*, the *Juvenile Delinquents Act*, *The Industrial Schools Act*, and *The Hospitals for the Insane Act*.¹³⁰

¹²⁸ *The Criminal Code Amendment Act, 1900*, S.C. 1900, c. 46, s. 207.

¹²⁹ *The Criminal Code Amendment Act, 1915*, S.C. 1915, c. 12, s. 7.

¹³⁰ Although I have referred specifically to the 1927 Acts, sections regarding escapes were also included in these Acts in the 19th and 20th centuries.

Escapes under the *Criminal Code*, section 189(b), provided that “Everyone is guilty of an indictable offence and liable to two years’ imprisonment who, whether convicted or not, escapes from any prison in which he is lawfully confined on any criminal charge[.]”¹³¹ The definition of prison “includes any penitentiary, common gaol, public or reformatory prison, lock-up, guard room or other place in which persons charged with the commission of offences are usually kept or detained in custody[.]”¹³² The *Prisons and Reformatories Act* dealt with escapes from a reformatory prison (which included the Mercer), refuges for females (which included Belmont), and industrial schools (such as the Alexandra Industrial School), each discussed below.¹³³

Reformatory Prisons

According to the *Criminal Code*, if a woman escaped or attempted to escape¹³⁴ from a reformatory prison such as the Mercer (on the assumption that she was “lawfully confined on a criminal charge”), she was liable, if convicted, to two years imprisonment.¹³⁵ In contrast, the *Prisons and Reformatories Act* (also a federal statute) provided for the woman’s apprehension without a warrant, to then be brought before a magistrate, and to be remanded back to the reformatory prison for the remainder of her term of detention (or imprisonment).¹³⁶ The Act also allowed for the magistrate to “sentence the offender to such additional term of imprisonment or

¹³¹ *Criminal Code*, R.S.C. 1927, c. 36, s. 189(b).

¹³² *Criminal Code*, R.S.C. 1927, c. 36, s. 2(29).

¹³³ *Prisons and Reformatories Act*, R.S.C. 1927, c. 163, ss. 23, 24, 25, 78.

¹³⁴ *Criminal Code*, R.S.C. 1927, c. 36, s. 188.

¹³⁵ *Criminal Code*, R.S.C. 1927, c. 36, ss. 188, 189.

¹³⁶ *Prisons and Reformatories Act*, R.S.C. 1927, c. 163, s. 23.

detention, as the case may be, not exceeding one year, as to such magistrate seems a proper punishment for the escape or attempt to escape.¹³⁷ *The Andrew Mercer Reformatory Act* (a provincial statute) was silent on the matter of escapes.¹³⁸

Refuges for Females

The Female Refuges Act included a succinct section regarding escapes: “[a]n inmate who escapes from an industrial refuge may be again arrested without any warrant by any peace officer and returned to the refuge.”¹³⁹ This was consistent with section 78 of the *Prisons and Reformatories Act* that provided for any escapee from a House of Refuge for Females to be arrested without a warrant, and confined again in the refuge “for the balance of the period of her sentence which remained unexpired at the time of her escape.”¹⁴⁰ However, sections 23 through 25 of the *Prisons and Reformatories Act* further made reference to escapes from industrial refuges.¹⁴¹ The individual, upon escape or attempted escape, had to be brought before a magistrate and the magistrate remanded the escapee to the industrial refuge for the remainder of her detention. The officer in charge of the industrial refuge could direct a request in writing to the magistrate that the individual be removed to another facility that was more secure, such as a reformatory, to serve out the remaining unexpired term. In addition, the magistrate could

¹³⁷ *Prisons and Reformatories Act*, R.S.C. 1927, c. 163, s. 25.

¹³⁸ *The Andrew Mercer Reformatory Act*, R.S.O. 1927, c. 346.

¹³⁹ *The Female Refuges Act*, R.S.O. 1927, c. 347, s. 7.

¹⁴⁰ *Prisons and Reformatories Act*, R.S.C. 1927, c. 163, s. 78.

¹⁴¹ *Prisons and Reformatories Act*, R.S.C. 1927, c. 163, ss. 23, 24, 25.

sentence the individual for an additional term not exceeding one year, either in the industrial refuge or the reformatory, as the case may be.

Industrial Schools

The *Juvenile Delinquents Act* had jurisdiction over children, delinquency, and their committal to an industrial school, although it was silent as to escapes.¹⁴² The *Industrial Schools Act*, on the other hand, specifically defined an escape as neglecting to attend the school, or to escape from the school, “at any time before the expiration of his period of detention[.]”¹⁴³ If the child was apprehended and returned to the school, she would be detained at the school for the remaining unexpired term of detention as of the date of her escape.¹⁴⁴ According to the *Prisons and Reformatories Act*, if an individual escaped, or attempted to escape, from an industrial school and was apprehended, she had to have been brought before a magistrate, who could remand the individual to be detained at the industrial school for the remaining unexpired term of her detention. However, the officer in charge of the industrial school, (such as the superintendent,) could direct a request in writing to the magistrate that the individual be removed to another facility that was more secure. The magistrate could then order the individual removed to a reformatory to serve out the remaining unexpired term of her detention.¹⁴⁵ Furthermore, the

¹⁴² *Juvenile Delinquents Act*, R.S.C. 1927, c. 108, ss. 3, 17(g).

¹⁴³ *The Industrial Schools Act*, R.S.O. 1927, c. 329, s. 26(1).

¹⁴⁴ *The Industrial Schools Act*, R.S.O. 1927, c. 329, s. 26(1).

¹⁴⁵ *Prisons and Reformatories Act*, R.S.C. 1927, c. 163, s. 24.

magistrate could sentence the individual for an additional term not exceeding one year, either in the industrial school or the reformatory.¹⁴⁶

An example of this complexity is described here. In 1935, the Deputy Attorney General wrote to an Assistant Crown Attorney in Toronto detailing four cases in which girls had escaped from the Alexandra Industrial School, and his concern regarding their proper sentences by the magistrates.¹⁴⁷ In one case, Mary was committed to the Alexandra Industrial School for incorrigibility in 1930. She escaped four years later, was apprehended, and brought to a magistrate's court where she was convicted for escaping and sentenced "to two years less a day and an indeterminate period thereafter not to exceed one year, to the Industrial Refuge." One month later she escaped from the industrial refuge and a different magistrate sentenced her to two years less one day and she was sent back to the refuge. Within one week of her return, she was transferred to the Andrew Mercer Reformatory.

The Deputy Attorney General's analysis was as follows: Mary was sentenced for incorrigibility under *The Industrial Schools Act*, an Ontario statute and not a *Criminal Code* offence; therefore, the sentence under the *Criminal Code* for escape from the industrial school was not applicable in this situation because she was not confined due to a criminal charge. The sentence under the *Prisons and Reformatories Act* is detailed in sections 24 and 25, as explained above. The Deputy Attorney General claimed she should have been returned to the industrial school and detained for the remainder of her unexpired term, and for an additional term not exceeding one year as punishment. Further, Mary's second elopement from the industrial refuge,

¹⁴⁶ *Prisons and Reformatories Act*, R.S.C. 1927, c. 163, s. 25.

¹⁴⁷ AO, RG 4-32.

if sentenced under the *Criminal Code* for escaping, was not applicable because she was not confined on a criminal charge, and an escape under the *Prisons and Reformatories Act* was not a criminal charge.

The upshot was that the four cases the Deputy Attorney General had referenced, were reviewed by the Assistant Crown Attorney and at least two of the girls were immediately released. A concern the Assistant Crown Attorney had relayed to the Deputy Attorney General was that the juvenile cases were held in private in the magistrate's office, and the Assistant Crown Attorney was not advised as to when the hearings were held; therefore, he had had no opportunity for legal input into the magistrate's decisions. A discussion was subsequently held between the Assistant Crown Attorney and the magistrates to reexamine their sentencing practices.¹⁴⁸

Hospitals for the Insane

Escapes from a Hospital for the Insane is solely dealt with in *The Hospitals for the Insane Act*:

If a patient escapes from a hospital any officer or servant of the hospital, or any other person at the request of any such officer or servant, may without warrant within forty-eight hours after such escape, and within one month after such escape where a warrant in the prescribed form has been issued by the superintendent, retake such escaped person and return him to the hospital; and the patient shall remain in custody therein under the authority by virtue of which he was detained prior to the escape.¹⁴⁹

¹⁴⁸ AO, RG 4-32.

¹⁴⁹ *The Hospitals for the Insane Act*, R.S.O. 1927, c. 353, s. 28.

It is important to note that because there were no term limits of detention in an Ontario Hospital, there was also no defined term of detention for punishment. However, that is not to say there was no punishment. Details are described below in The Patients chapter.

The Andrew Mercer Reformatory Act¹⁵⁰

In 1897, the Andrew Mercer Ontario Reformatory for Females (hereinafter referred to as the “Mercer”) was defined as a reformatory “for the reception, confinement and employment” of female offenders.¹⁵¹ The Mercer was a Provincial prison, as defined by the *Criminal Code*,¹⁵² and not a charitable or quasi-charitable institution. This Act must be read in conjunction with the federal *Prisons and Reformatories Act*.¹⁵³

In the 1897 Act Respecting the Andrew Mercer Ontario Reformatory for Females, if a woman was convicted of a Provincial offence in which punishment was imprisonment in a jail or imprisonment and a fine, the magistrate had the authority to instead sentence the women directly to a reformatory.¹⁵⁴ The 1906 *Prisons and Reformatories Act* broadened the scope to include if she “is convicted of an offence against the laws of Canada, punishable by imprisonment in the

¹⁵⁰ The name of this Act was revised over the years, but I chose *The Andrew Mercer Reformatory Act* for my heading as this citation was in use from 1913 to 1935.

¹⁵¹ *An Act Respecting the Andrew Mercer Ontario Reformatory for Females*, R.S.O. 1897, c. 309, s. 2. This definition stayed consistent over the next four decades, although the word “confinement” was revised to “detention” by 1913.

¹⁵² *Criminal Code*, S.C. 1892, c. 29, s. 3(u).

¹⁵³ *Prisons and Reformatories Act*, R.S.C. 1906, c. 148. The earlier Act is from 1886, but for the purpose of this thesis I began my review with the 1906 version.

¹⁵⁴ *An Act Respecting the Andrew Mercer Ontario Reformatory for Females*, R.S.O. 1897, c. 309, s. 13.

common gaol for a term of two months, or for any longer time,” she could be sentenced to the Mercer instead of a jail.¹⁵⁵

If a woman had been sentenced to imprisonment for an offence against any Provincial Act and was already confined in a common jail,¹⁵⁶ the Provincial Secretary could direct that she be transferred to the Mercer to serve her remaining unexpired term of imprisonment.¹⁵⁷

Similarly, the *Prisons and Reformatories Act* provided for a woman who was imprisoned in a jail for an offence against the laws of Canada, to be transferred to the Mercer where she would serve the residue of her term.¹⁵⁸ However, there was an alternative sentencing exception under the *Prisons and Reformatories Act*. If she was convicted as a “loose, idle or disorderly person or vagrant” under section 239 of the *Criminal Code* (the vagrancy section) or Part XVI of the *Criminal Code*, she could be sentenced to the Mercer for “any term less than two years.”¹⁵⁹ This gendered sentencing can be traced back to the 1881 *An Act with reference to the Andrew Mercer (Ontario) Reformatory for Females, and the Central Prison for the Province of Ontario*, which stated “When any female is convicted under either of the Acts . . . of the Parliament of Canada . . . intituled [sic] . . . ‘An Act respecting Vagrants,’ . . . she may be sentenced to the said reformatory for any period less than two years; but in case any term exceeding six months is

¹⁵⁵ *Prisons and Reformatories Act*, R.S.C. 1906, c. 148, s. 55, 56.

¹⁵⁶ A common jail is a prison, but not a penitentiary, as defined by the *Criminal Code*, S.C. 1892, c. 29, s. 3(u).

¹⁵⁷ *An Act Respecting the Andrew Mercer Ontario Reformatory for Females*, R.S.O. 1897, c. 309, s. 12.

¹⁵⁸ *Prisons and Reformatories Act*, R.S.C. 1906, c. 148, s. 56.

¹⁵⁹ *Prisons and Reformatories Act*, R.S.C. 1906, c. 148, s. 57; *Criminal Code*, R.S.C. 1906, c. 146, s. 239; *Criminal Code*, R.S.C. 1906, Part XVI. The offences in Part XVI include theft under ten dollars, attempt to commit theft, wounding or inflicting grievous bodily harm, indecent assault, assaulting public or peace officer, keeping or frequenting houses of ill-fame, illegal betting or wagering.

inflicted, no fine shall be imposed in addition.”¹⁶⁰ Both the 1897 Act and the *Prisons and Reformatories Act* also allowed for the transfer of the woman back to the jail from the Mercer.¹⁶¹

The Andrew Mercer Reformatory Act of 1913 repealed and replaced the 1897 Act.¹⁶² The 1913 Act codified that a woman could be imprisoned in the Mercer “for an indefinite period not exceeding two years”, for all convictions against Provincial Acts in which the punishment was imprisonment.¹⁶³ The *Prisons and Reformatories Act* was also amended in 1913. If a woman was convicted of an offence against the laws of Canada, not just the *Criminal Code*, and the punishment was imprisonment, she could have been sentenced to the Mercer for “an indefinite period not exceeding two years.”¹⁶⁴

The Public Institutions Amendment Act, 1919 contained two amendments that directly affected *The Andrew Mercer Reformatory Act*.¹⁶⁵ The first amendment revised section 5 of *The Andrew Mercer Reformatory Act* which detailed the duties of the superintendent, officers, and servants of the Mercer. In the revision, the day to day duties within the reformatory were consistent with the past versions of the law, but a sentence was added that expanded their duties “which may include as part of the work thereof the visiting from time to time in the Province of paroled and discharged inmates, with a view of continuing and prolonging the work of

¹⁶⁰ *An Act with reference to the Andrew Mercer (Ontario) Reformatory for Females, and the Central Prison for the Province of Ontario*, S.O. 1881, c. 32, s. 3.

¹⁶¹ *An Act Respecting the Andrew Mercer Ontario Reformatory for Females*, R.S.O. 1897, c. 309, s.15; *Prisons and Reformatories Act*, R.S.C. 1906, c. 148, s. 60.

¹⁶² *The Andrew Mercer Reformatory Act*, S.O. 1913, c. 78, s. 23.

¹⁶³ *The Andrew Mercer Reformatory Act*, S.O. 1913, c. 78, s. 9(1).

¹⁶⁴ *Prisons and Reformatories Act*, S.C. 1913, c. 39, s. 2, 3.

¹⁶⁵ *The Public Institutions Amendment Act, 1919*, S.O. 1919, c. 83; *The Andrew Mercer Reformatory Act*, S.O. 1913, c. 78.

reformation through friendly and voluntary assistance[.]”¹⁶⁶ In other words, governmental surveillance of women was continuing past their date of discharge.

The second amendment referred to women at the Mercer who were determined by a physician to be mental defectives and unable to care for themselves if discharged. A warrant could be signed by the inspector and the Inspector of Feeble-Minded to transfer women “to a suitable institution for care and training[.]”¹⁶⁷ Although not specified in the statute, patient files have provided evidence that the suitable institution was considered to be the Ontario Hospital, Orillia.

In 1925, *The Prisons and Public Charities Inspection Act*, 1925, provided inspectors with the authority to “control or direct all admissions to the Reformatory for Ontario, the Andrew Mercer Reformatory for Females, any industrial farm, industrial refuge, common or district gaol, or to any Ontario Hospital, and may from time to time remove or transfer any inmate from any said institution to any other said institution.”¹⁶⁸ As mentioned previously, this allowed for a more fluid movement of inmates/patients between institutions with fewer restrictions.

In 1930, the *Criminal Code* was amended to allow the transfer of an individual who was “feeble-minded or mentally deficient” from any reformatory or industrial school to a “place of safe keeping.”¹⁶⁹ As commented previously, a “place of safe keeping” was a euphemism for an Ontario Hospital.

¹⁶⁶ *The Public Institutions Amendment Act*, 1919, S.O. 1919, c. 83, s. 9.

¹⁶⁷ *The Public Institutions Amendment Act*, 1919, S.O. 1919, c. 83, s. 10. The position of Inspector of Feeble-Minded was created in 1916 as an amendment to *The Prisons and Public Charities Inspection Act* under *The Statute Law Amendment Act*, 1919, S.O. 1916, c. 24, s. 47.

¹⁶⁸ *The Prisons and Public Charities Inspection Act*, 1925, S.O. 1925, c. 81, s. 3.

¹⁶⁹ *An Act to amend the Criminal Code*, S.C. 1930, c. 11, s. 26.

*The Female Refuges Act*¹⁷⁰

An Act respecting Houses of Refuge for Females was enacted in 1893.¹⁷¹ These institutions were “for the care of young or adult females” and ensured that Protestant and Catholic women were segregated into their respective religious refuges.¹⁷² These refuges were not government institutions, but rather charitable institutions that, once designated as a refuge and named in *The Charity Aid Act*, received some monetary aid from the provincial government. This legislation stipulated “all females sentenced to, or confined from time to time in any of the common gaols of the Province under sentence of imprisonment by a police magistrate of any city, for any offence against any Act of the Legislature of the Province, or against any by-law of any municipality in the Province,” could instead be committed directly to any house of refuge for females or transferred from a common jail to the refuge, to serve out the residue of her term of imprisonment, including women who were imprisoned due to a “default of the payment of a fine.”¹⁷³ The house of refuge was “deemed to be houses of industry or correction” within the context of *An Act Respecting Offences Against Public Morals and Public Convenience*, a federal statute.¹⁷⁴

In 1894, a federal statute entitled *An Act respecting Houses of Refuge for Females in Ontario* was enacted and mirrored the provincial law.¹⁷⁵ This Act provided for the committal of a

¹⁷⁰ The name of this Act was revised over the years, but I chose *The Female Refuges Act* for my heading as this citation was in use from 1913 until the 1950s, and it is the title that is commonly used.

¹⁷¹ *An Act respecting Houses of Refuge for Females*, S.O. 1893, c. 56.

¹⁷² *An Act respecting Houses of Refuge for Females*, S.O. 1893, c. 56, ss. 1, 2.

¹⁷³ *An Act respecting Houses of Refuge for Females*, S.O. 1893, c. 56, ss. 2, 3.

¹⁷⁴ *An Act respecting Houses of Refuge for Females*, S.O. 1893, c. 56, s. 13; *An Act Respecting Offences Against Public Morals and Public Convenience*, R.S.C. 1886, c. 157, s. 8(4).

¹⁷⁵ *An Act respecting Houses of Refuge for Females in Ontario*, S.C. 1894, c. 60.

woman for “any offence against any Act of the Parliament of Canada,” and thus included offences against the *Criminal Code*.¹⁷⁶ Thus, by 1894, women could be committed to a house of refuge for females upon sentence or confinement to a jail due to an offence against a municipal by-law, a provincial law, or a federal law, and she could be transferred back to the jail or “to any other place of imprisonment to which the offender may be removed according to law.”¹⁷⁷

In 1912, *The Houses of Refuge Act* (not *The Houses of Refuge for Females Act*) was introduced to address the issue of commitment regarding feeble-minded females.¹⁷⁸ A feeble-minded person could be admitted to a house of refuge if they needed special care but were “not fit subjects for commitment to Hospitals for the Insane, or to Hospitals for Idiots.”¹⁷⁹ Further, if a female between the ages of sixteen and forty-five was certified by a physician as feeble-minded due to “natural imbecility” and “unable to care for herself if discharged”, she could not be discharged from the refuge except with the approval of an Inspector of Prisons and Public Charities.¹⁸⁰

The Female Refuges Act of 1913 replaced the previous version of the Act and instituted broad new powers over women.¹⁸¹ The institutions were now designated ‘Industrial Refuges’ and were deemed houses of correction within the context of the *Prisons and Reformatories Act*.¹⁸²

The commitment to an industrial refuge was reminiscent of the original Act in that it provided for

¹⁷⁶ *An Act respecting Houses of Refuge for Females in Ontario*, S.C. 1894, c. 60, s. 2.

¹⁷⁷ *An Act respecting Houses of Refuge for Females*, S.O. 1893, c. 56, 4.

¹⁷⁸ *The Houses of Refuge Act*, S.O. 1912, c. 82, ss. 14, 15.

¹⁷⁹ *The Houses of Refuge Act*, S.O. 1912, c. 82, s. 14(1)(c).

¹⁸⁰ *The Houses of Refuge Act*, S.O. 1912, c. 82, s. 15.

¹⁸¹ *The Female Refuges Act*, S.O. 1913, c. 79, s. 13.

¹⁸² *The Female Refuges Act*, S.O. 1913, c. 79, ss. 2(a), 12.

committal either directly to the industrial refuge or via transfer from a common jail, but now the law was specifically for females between fifteen and thirty-five years of age, who were sentenced “or liable to be sentenced to imprisonment in a common gaol.”¹⁸³ In addition, a girl who was an inmate of an industrial school could be transferred directly from an industrial school to an industrial refuge.¹⁸⁴ The term of detention at the industrial refuge was for “an indefinite period not exceeding five years,” although there was an exception.¹⁸⁵ Mirroring the 1912 *The Houses of Refuge Act* mentioned above, if a female was feeble-minded due to “natural imbecility” and likely “unable to care for herself if discharged”, the approval of the inspector was required before she could be discharged from the industrial refuge.¹⁸⁶

The Female Refuges Act stated that if a woman committed to an industrial refuge proved to be “unmanageable or incorrigible,” she could be transferred to a common jail or to the Mercer by the inspector.¹⁸⁷ Because industrial refuges were within the purview of the *Prisons and Reformatories Act*, if a woman was incorrigible or uncontrollable, another option was to have her “be brought without warrant before any magistrate.”¹⁸⁸ If the officer in charge of the industrial refuge (such as the superintendent) certified that the woman should be removed to a facility with “stricter imprisonment”, the magistrate could order the woman’s transfer to the Mercer for the remainder of her term of imprisonment or detention.¹⁸⁹ Furthermore, a magistrate could “upon

¹⁸³ *The Female Refuges Act*, S.O. 1913, c. 79, s. 3(1).

¹⁸⁴ *The Female Refuges Act*, S.O. 1913, c. 79, s. 3(2).

¹⁸⁵ *The Female Refuges Act*, S.O. 1913, c. 79, s. 3(1).

¹⁸⁶ *The Female Refuges Act*, S.O. 1913, c. 79, s. 10.

¹⁸⁷ *The Female Refuges Act*, S.O. 1913, c. 79, s. 6.

¹⁸⁸ *Prisons and Reformatories Act*, R.S.C. 1906, c. 148, s. 25.

¹⁸⁹ *Prisons and Reformatories Act*, R.S.C. 1906, c. 148, s. 26.

conviction for any such incorrigible or vicious conduct, sentence the offender to such additional term of imprisonment, not exceeding one year[.]”¹⁹⁰

Due to a coroner’s inquest into the death of a woman who, on January 19, 1919, had attempted an unsuccessful escape through a window at the House of the Good Shepherd in Toronto,¹⁹¹ questions were raised by Ontario’s Attorney General as to the legality of detention and the lack of judicial oversight regarding committals to industrial refuges.¹⁹² By April 1919, a revised *Female Refuges Act* ushered in substantive revisions.¹⁹³ A number of these revisions were verbatim from *The Industrial Schools Act*.

The most substantive change involved the term of committal, which was revised from “an indefinite period not exceeding five years,” to “an indefinite period not exceeding two years.”¹⁹⁴ Furthermore, there was a modification regarding committals. Previously at issue was the fact that women were being committed directly to an industrial refuge by their parents, guardians, or husbands for incorrigible behaviour, and were detained in the industrial refuge for an indeterminate period of not more than five years. Because they were not committed by a magistrate, there was no legal authorization for their detention and these women should have

¹⁹⁰ *Prisons and Reformatories Act*, R.S.C. 1906, c. 148, s. 27.

¹⁹¹ Alice Halloran, aged seventeen, died of a fractured skull as a result of a fall from a window while attempting an escape. AO, MS 935, Ontario, Canada, Deaths, 1869-1936 and Deaths Overseas, 1939-1947; “Limit Time of Sentence,” *The Globe*, 12 April 1919, 16; “Describes the Home as a Living Death,” *The Toronto Daily Star*, 28 January 1919, 20; “Says Mental Expert Should Make Visits,” *The Toronto Daily Star*, 28 January 1919, 2; “Kept 2 Years in Home Against Her Wishes,” *The Toronto Daily Star*, 4 February 1919, 7.

¹⁹² “Kept 2 Years in Home Against Her Wishes,” 7.

¹⁹³ *The Female Refuges Act, 1919*, S.O. 1919, c. 84, s. 19.

¹⁹⁴ *The Female Refuges Act*, S.O. 1913, c. 79, s. 3(1); *The Female Refuges Act, 1919*, S.O. 1919, c. 84, s. 3(1).

been free to leave the industrial refuge at any time.¹⁹⁵ This was rectified by requiring that a woman had to first be brought before a magistrate,¹⁹⁶ and that “[n]o person shall be admitted to an Industrial Refuge except on warrant signed by a judge or transfer warrant signed by the inspector.”¹⁹⁷ Although industrial refuges were charitable institutions that received a portion of their funding from the provincial government, the board no longer had the privilege of choosing who could be admitted and were directed by law to only admit a woman committed via the court or the Inspector.

Federal and provincial laws were beginning to overlap in both their wording and who was affected by the particular statutes. *The Female Refuges Act* stated at section 16:

Any person may bring before a judge any female under the age of thirty-five years who
(a) is found begging or receiving alms or being in any street or public place for the purpose of begging or receiving alms;
(b) is a habitual drunkard or by reason of other vices is leading an idle and dissolute life.¹⁹⁸

This was reminiscent of *The Industrial Schools Act* which stated:

Any person may bring before a Judge any child apparently under the age of sixteen years, who:
(a) is found begging or receiving alms, or being in any street or public place for the purpose of begging or receiving alms; (. . .)
(e) is, by reason of the neglect, drunkenness or other vices of his parents, suffered to grow up without salutary parental control and education, or in circumstances exposing him to lead an idle and dissolute life.¹⁹⁹

¹⁹⁵ “Limit Time of Sentence,” *The Globe*, 12 April 1919, 16; “Describes the Home as a Living Death,” *The Toronto Daily Star*, 28 January 1919, 20; “Says Mental Expert Should Make Visits,” *The Toronto Daily Star*, 28 January 1919, 2; “Kept 2 Years in Home Against Her Wishes,” *The Toronto Daily Star*, 4 February 1919, 7.

¹⁹⁶ *The Female Refuges Act, 1919*, S.O. 1919, c. 84, ss. 16, 18.

¹⁹⁷ *The Female Refuges Act, 1919*, S.O. 1919, c. 84, s. 13.

¹⁹⁸ *The Female Refuges Act, 1919*, S.O. 1919, c. 84, s. 16(1).

¹⁹⁹ *The Industrial Schools Act*, S.O. 1910, c. 105, s. 10.

Section 238 of the *Criminal Code* was also similar.

Everyone is a loose, idle or disorderly person or vagrant who,

(d) (. . .) wanders about and begs, or goes about from door to door, or places himself or herself in any street, highway, passage or public place to beg or receive alms; (. . .)

(f) causes a disturbance in or near any street, road, highway or public place, by screaming, swearing or singing, or by being drunk, or by impeding or incommoding peaceable passengers; (. . .)

(i) being a common prostitute or night walker, wanders in the fields, public streets or highways, lanes or places of public meeting or gathering of people, and does not give a satisfactory account of herself[.]²⁰⁰

In fact, the Chief Officer of the Parole Board questioned the above in a letter to the Attorney General of Ontario, stating “it appears to me that anyone convicted [under section 16 of *The Female Refuges Act*] would really be guilty of an offence against Section 238 of the *Criminal Code*, namely, vagrancy.”²⁰¹ He continued, asking for the opinion of the Attorney General as this was,

a vital question as it involves the sending of a woman to an Industrial Refuge for an indefinite period of 2 years, whereas the Dominion Prisons and Reformatories Act specifies that when a person is sentenced for any crime, which would appear from Section 238 of the Code to include an offence of this kind, the only place to which a woman can be sent for an indefinite period of 2 years is the Andrew Mercer Reformatory.²⁰²

The Deputy Attorney General responded,

I could not give an opinion as to the constitutional validity of an Act of the Legislature except at the request of my own (or the Prime) Minister.

²⁰⁰ *Criminal Code*, R.S.C. 1906, c. 146, s. 238.

²⁰¹ AO, RG 4-32, 1929.

²⁰² AO, RG 4-32, 1929.

If I advised you that the Act was constitutional, we would be where we were, and it would hardly be correct to cast doubts upon an Act which the Legislature and the Government at least to date have considered valid.²⁰³

Also under section 16 was the direction that although a woman could be brought before a judge by any person, “[n]o formal information shall be requisite.”²⁰⁴ In addition, the cases were to be held in private, although there was no definition of ‘private’.²⁰⁵ A woman before a magistrate in the Toronto Women’s Police Court was not private. This was an open court except there were no men allowed in the court other than the staff, but there were newspaper reporters in attendance. To compare, *The Industrial Schools Act* stipulated their hearings were to be held in private, which usually meant meeting in the judge’s chambers as noted in *The Industrial Schools Act* section of this chapter.²⁰⁶

The Female Refuges Act specifically allowed a parent or guardian to bring their ward before a judge, if she was under twenty-one years old and “unmanageable or incorrigible”, words that usually described children under *The Industrial Schools Act*.²⁰⁷ The section that provided for an inspector to transfer an inmate of an industrial refuge to a jail or the Mercer because she was “unmanageable or incorrigible”, was still in force.²⁰⁸

²⁰³ AO, RG 4-32, 1929.

²⁰⁴ *The Female Refuges Act*, 1919, S.O. 1919, c. 84, s. 16(2). Section 16(2), (3), and (4) of the aforementioned *The Female Refuges Act* was virtually identical to section 10(2), (3), and (4) of *The Industrial Schools Act*, S.O. 1910, c. 105.

²⁰⁵ *The Female Refuges Act*, 1919, S.O. 1919, c. 84, s. 16(3).

²⁰⁶ *The Industrial Schools Act*, S.O. 1910, c. 105, s. 10(3).

²⁰⁷ *The Female Refuges Act*, 1919, S.O. 1919, c. 84, s. 18.

²⁰⁸ *The Female Refuges Act*, 1919, S.O. 1919, c. 84, s. 6; *Prisons and Reformatories Act*, R.S.C. 1906, c. 149, ss. 25, 26.

The removal of feeble-minded women from an industrial refuge was explicitly permitted in this statute. A medical practitioner had to examine all inmates every six months and forward his reports to the board.²⁰⁹ Upon review of the reports, the board could recommend to the inspector that a woman was feeble-minded, and the inspector could then transfer the women to the Hospital for Feeble-Minded.²¹⁰ The Hospital for the Feeble-Minded was the institution in Orillia, later known as the Ontario Hospital, Orillia, approximately 150 kilometres north of downtown Toronto. On occasion, the superintendent of the Hospital for the Feeble-Minded would not agree to accept any more patients due to severe overcrowding, consequently, the Inspector dictated that inmates/patients be transferred to other Ontario Hospitals, including the Ontario Hospital, Cobourg.²¹¹

In 1925, *The Prisons and Public Charities Inspection Act, 1925*, provided inspectors with the authority to “control or direct all admissions to the Reformatory for Ontario, the Andrew Mercer Reformatory for Females, any industrial farm, industrial refuge, common or district gaol, or to any Ontario Hospital, and may from time to time remove or transfer any inmate from any said institution to any other said institution.”²¹² As mentioned previously, this allowed for a more fluid movement of inmates/patients between institutions with fewer restrictions.

²⁰⁹ *The Female Refuges Act, 1919*, S.O. 1919, c. 84, s. 9.

²¹⁰ *The Female Refuges Act, 1919*, S.O. 1919, c. 84, s. 10.

²¹¹ This was evidenced in Cobourg patient files.

²¹² *The Prisons and Public Charities Inspection Act, 1925*, S.O. 1925, c. 81, s. 3.

Conclusion

This chapter has demonstrated that statutes could not be read in isolation. Federal and provincial statutes were interrelated which caused confusion because the guidance provided was occasionally at odds, even within the same statute. The complexity resulted in women being confined for a protracted period of time. This was in addition to the alternative dispositions that were provided for in gendered provincial laws, which allowed for a lengthier detention to ‘reform’ the woman. Analysis of the legislation also indicated that transfers of girls and/or women to subsequent institutions became straightforward in 1925, which allowed for fluid movement of women into and between Ontario Hospitals where there was no defined term of detention.

Chapter Three

The Institutions

Although the women who were institutionalized in Cobourg were from all over Ontario, the top three institutions where these women were committed prior to Cobourg (excluding other Ontario Hospitals) were the Alexandra Industrial School, the Andrew Mercer Reformatory for Women, and the Toronto Industrial Refuge, all located in Toronto and the surrounding area. I suggest that the smaller county courts without the reformatory correctional and industrial facilities preferred to transfer the women to Toronto with its many institutions.

Women who were already living in Toronto after 1912, and were arrested, likely appeared in the Toronto Women's Police Court, a court designed for the reformation of women rather than punishment.²¹³ This court used the gendered laws described in the last chapter, to sentence/commit women to the Andrew Mercer Reformatory and the Toronto Industrial Refuge for alternative (longer) terms before discharging them or transferring them to another institution.

This chapter describes the institutions to which women (and girls) were most likely to have been committed. Although not an institution, the Toronto Women's Police Court was a court many women attended on their path to committal. The first facility was the Alexandra Industrial School, an institution for girls for protection, care, and learning. The Toronto Industrial Refuge was a religious institution for the protection and domestic training of women, whereas the Andrew Mercer Reformatory was a women's only correctional facility. Lastly, the Ontario

²¹³ For an excellent in-depth interrogation of the Toronto Women's Police Court, see Amanda Glasbeek's book *Feminized Justice: The Toronto Women's Court, 1913-1934*.

Hospital, Cobourg, an institution for women who were certified as insane or feeble-minded. It is significant to note that none of the above are in existence today.

Toronto Women's Police Court

The Toronto Women's Police Court was established in January 1913 to be a safe environment for female offenders and victims. The only men allowed in the court were the magistrate and lawyers, along with any other court staff, and any men who were charged with crimes against women.

The magistrates of the Women's Court were administering justice on summary conviction offences, also referred to as 'low law' or 'petty crime'.²¹⁴ Glasbeek described 'low justice' as "more coercive, less well scrutinized" and "largely a class-based distinction[.]"²¹⁵ This court was to be a social experiment, an opportunity for reformation and redemption of women rather than just punishment. The alternative sentencing/disposition laws, specifically *The Female Refuges Act* and *The Andrew Mercer Reformatory Act*, were utilized in the Women's Court because the statutes were gendered, and also due to their 'low law' nature. Reformation was understood as a longer process; therefore, indeterminate terms in reformatories or industrial refuges were utilized to allow sufficient time to instil moral values in the women instead of shorter term punishment in the jails or jail farms.²¹⁶

²¹⁴ Glasbeek 6.

²¹⁵ Glasbeek 7.

²¹⁶ Glasbeek 63.

The first magistrate of the Women's Court was Colonel George Taylor Denison from 1913 to 1921.²¹⁷ He was criticized for his "speedy justice" of which was written "in his daily duty, it is not uncommon for the Colonel to smooth out two hundred and fifty cases in one hundred and eighty minutes."²¹⁸

Denison was replaced by Dr. Margaret Patterson, in 1922. She sat as a magistrate in the court until 1934. Patterson was born in rural Ontario in 1875 and was educated at Toronto's Ontario Medical College for Women although she did not receive her degree. She continued her studies in the United States at Woman's Medical School, Northwestern University in Chicago, Illinois, graduating in 1899 with her MD. She became a medical missionary and volunteered at the Seward Memorial Hospital for Women in Allahabad, India for six years.²¹⁹ Patterson had no legal training when she was appointed as magistrate to the Women's Court and it was reported that she disproportionately chose alternative dispositions for offenders (longer, indeterminate terms) rather than sentencing under the *Criminal Code* (shorter terms).²²⁰

A blow to Patterson (and the Toronto Women's Court) came about in 1929, when Attorney General William Herbert Price wrested the domestic relations cases away from the Women's Court and transferred the cases to the Toronto Juvenile Court.²²¹ The official reasons

²¹⁷ Glasbeek 28.

²¹⁸ Glasbeek 63.

²¹⁹ Loraine Gordon, *Doctor Margaret Patterson: First Woman Police Magistrate in Eastern Canada, 1980*.

²²⁰ Glasbeek 165.

²²¹ Dorothy E. Chunn, *From Punishment to Doing Good: Family Courts and Socialized Justice in Ontario, 1880-1940*, University of Toronto Press, 1992, 112-115; Dorothy E. Chunn, "Maternal Feminism, Legal Professionalism and Political Pragmatism: The Rise and Fall of Magistrate Margaret Patterson, 1922-1934," *Canadian Perspectives on Law & Society: Issues in Legal History*, edited by W. Wesley Pue and Barry Wright, Carleton University Press, 1988, 104-105.

given were cost-cutting measures and the opportunity to streamline the courts. Unofficially, Patterson was considered an irritant to many, including the media and the various branches of the Ontario government throughout her tenure. Patterson was left with “‘minor cases’ involving females”.²²²

The death knell for Patterson was the election of the Hepburn Liberals in 1934, during the Great Depression. In an effort to realize cost savings, the Ontario government proceeded to fire eighty-six magistrates, leaving only fifty-six across Ontario.²²³ Patterson was one of the magistrates who was unceremoniously dismissed in November.²²⁴ However, Chunn pointed out that “so far as Margaret Patterson is concerned, the province saved nothing by firing her because the City of Toronto paid the salaries of its magistrates.”²²⁵ On the same day as Patterson’s dismissal, Thomas O’Connor, KC, was appointed as magistrate of the Women’s Court.²²⁶

Glasbeek ended her review of the Women’s Court in 1934 after Patterson was removed. Although I have been unable to ascertain the date of the Toronto Women’s Court dissolution, I noted the Toronto Daily Star continued their Women’s Police Court column until the late 1930s, and mentions of the Women’s Court continued into the 1940s.

²²² Chunn, *From Punishment to Doing Good*, 115; Chunn, “Maternal Feminism”, 105.

²²³ Chunn, “Maternal Feminism”, 105.

²²⁴ Loraine Gordon, “Doctor Margaret Norris Patterson: First Woman Police Magistrate in Eastern Canada - Toronto - January 1922 to November 1934”, *Atlantis*, vol. 10, no. 1, Fall 1984, 106. Patterson received her note of dismissal while she was literally on the bench presiding over cases.

²²⁵ Chunn, “Maternal Feminism”, 107.

²²⁶ Glasbeek 28; “Changes in Toronto Court Circles”, *The Globe*, 22 November 1934, 5.

Alexandra Industrial School

The founders of the Alexandra Industrial School for Girls were prominent Toronto Protestant reformers whose husbands successfully established the Victoria Industrial School for Boys. Their mission was “the prevention of children from becoming criminal.”²²⁷ In 1891, the Alexandra Industrial School began accepting girls under sixteen years of age into their institution.²²⁸ The school was located in a rural area twenty-three kilometres east of Toronto (now known as Scarborough). The location of the school was chosen specifically because it was in the countryside away from the crime, the negative influence, and temptations of the city. Its rehabilitative efforts were built on a family-style environment where religious training, education (including domestic training such as laundry, cooking, and house cleaning,) and chores were strictly organized.²²⁹ Discipline ranged from rewards for good behaviour, such as sweets or knitting needles, to punishment by verbal reprimands or being sent to one’s room.²³⁰

Over the years, the Alexandra Industrial School admitted approximately 1600 girls with the cooperation of their parents, the Children’s Aid Society, social workers, and the courts. The girls were usually committed due to their incorrigible behaviours, which varied from refusals to help with the housework to sexual activity. The enactment of the federal *Juvenile Delinquents Act* in 1908²³¹ caused an increase of girls being committed to the school via juvenile courts,

²²⁷ Iliana Arapis, ‘*Sugar and Spice and Everything Nice*’: *The Idealization of Girlhood at the Alexandra Industrial School for Girls, 1891-1936*, Master of Arts Thesis, Queen’s University, Kingston, Ontario, 1994, 23.

²²⁸ Arapis 22.

²²⁹ Arapis 30.

²³⁰ Arapis 33, 35.

²³¹ *Juvenile Delinquents Act*, S.C. 1908, c. 40.

resulting in the school becoming overcrowded. According to Arapis, after 1909, “the population of the school jumped from approximately thirty to ninety girls. In 1933, approximately 140 girls were recorded as residing in two cottages which only had a capacity for fifty girls each.”²³² The Alexandra Industrial School had begun to shift from a family style environment to a reformatory institute.

Starting in 1913, the girls were subjected to psychological and intelligence quotient (“IQ”) tests at the behest of Dr. Helen MacMurchy, who became Inspector of the Feeble-Minded in 1916. Approximately forty-seven percent of the girls were determined to be “below normal” in intelligence.²³³ I expect some of the ‘below normal’ girls were transferred to an industrial refuge because, according to *The Female Refuges Act* of 1919, any feeble-minded girl could then be transferred to the Ontario Hospital, Orillia.²³⁴

By the 1930s, during the Great Depression, private funding was difficult to attain and the Ontario government had greatly reduced their financial support of quasi-governmental reform institutions.²³⁵ Further, an amendment to the *Criminal Code* in 1930 had provided for the transferring of feeble-minded and mentally defective girls housed in industrial schools to “places of safe-keeping”, code for Ontario Hospitals.²³⁶ In the last few years of its existence, girls were being methodically transferred to various institutions. The Alexandra Industrial School closed in 1936.

²³² Arapis 111.

²³³ Arapis 45. I view this information critically as I do not know where the final reports on intelligence could be found or if they are still extant.

²³⁴ *The Female Refuges Act, 1919*, S.O. 1919, c. 84.

²³⁵ Arapis 113.

²³⁶ *An Act to amend the Criminal Code*, S.C. 1930, c. 11, s. 26.

*Toronto Industrial Refuge*²³⁷

The Toronto Industrial Refuge (hereinafter referred to as “Belmont”) was incorporated in 1858 under the name the Toronto Magdalen Asylum and Industrial House of Refuge.²³⁸ It was established as a private Christian institution by “Anglo-Protestant female reformers” whose husbands were prominent businessmen and politicians in Toronto. Their goal was to help reform “fallen women” by providing them with “moral, religious, and domestic training”.²³⁹ From the beginning, admissions were voluntary, however, the woman had to commit to residing in the refuge for twelve months to ensure sufficient training.²⁴⁰ Although the main thrust of the refuge was to instil religious thought and moral attitudes, the women were engaged (likely without remuneration) in the refuge’s commercial laundry enterprise, defined as industrial training.²⁴¹

By the turn of the century, Belmont was one of a number of organizations in Toronto focussed on the protection and/or training of young women.²⁴² To continue their core values while remaining relevant to the needs of the city, the founders of Belmont reluctantly began accepting women who were defined as feeble-minded, but were quick to remind the public that

²³⁷ The Toronto Industrial Refuge was also known as the Belmont Industrial Refuge because it was located on Belmont Street.

²³⁸ Joanne Cheryl Minaker, *‘Censuring the Erring Female:’ Governing Female Sexuality at the Toronto Industrial Refuge, 1853-1939*, PhD Dissertation, Queen’s University, Kingston, Ontario, 2003, 47. In 1877, the name was changed to the Toronto Industrial House of Refuge, Minaker 146.

²³⁹ Minaker 20, 32.

²⁴⁰ Minaker 48, 79.

²⁴¹ Minaker 132, 96. It was unclear whether the women received any compensation for their work in the laundry, or whether it was only used for teaching values and hard work without pay.

²⁴² Minaker 136-143. Other institutions included the Andrew Mercer Reformatory, The Industrial Refuge for Girls, the Alexandra Industrial School, the Children’s Aid Society, the Good Shepherd Refuge, the Prison Gate committee, the Haven, the Salvation Army Rescue Home, and the Fred Victor Home.

the refuge was not a prison.²⁴³ By 1913, the refuge was unofficially branded the “Home for Feeble-Minded Women”, a name which endured for the next two decades.²⁴⁴

Admissions began to increase when in 1919 Belmont was designated a “refuge” under Ontario’s *The Female Refuges Act* by the Lieutenant-Governor.²⁴⁵ Women began to be transferred to Belmont from the Toronto Women’s Police Court and likely the Alexandra Industrial School via the aforementioned Act.²⁴⁶ But due to its designation, the founders and superintendent of Belmont no longer had control over admissions and were accountable to the provincial government.²⁴⁷ This created conflict as the founders and workers at the refuge tried to remain true to their core value of Christian religious belief.²⁴⁸ In addition, the refuge was not legally defined as a provincial institution, like the Mercer, and therefore did not receive the same grants, although it had become a “quasi-prison” with its increasing disciplinary systems.²⁴⁹

The years of the Great Depression provided more challenges to Belmont. Public contributions had declined and because of competition from commercial laundries, the refuge’s laundry was no longer viable and subsequently closed in 1938.²⁵⁰ By 1938, Belmont was the last institution in Toronto that accepted individuals who “were placed in private custody by the

²⁴³ Minaker 179, 182.

²⁴⁴ Minaker 165.

²⁴⁵ This date is according to Minaker 195, I have been unable to confirm this date. *The Female Refuges Act, 1919*, S.O. 1919, c. 84, s. 2(a).

²⁴⁶ Minaker 198.

²⁴⁷ Minaker 196, 201.

²⁴⁸ Minaker 222.

²⁴⁹ Minaker 231, 226.

²⁵⁰ Minaker 232, 233.

public authorities.”²⁵¹ The provincial government transferred the last of the inmates from Belmont to the Mercer on July 1, 1939, which effectively closed Belmont as an industrial refuge after eighty-one years of existence.²⁵²

Andrew Mercer Reformatory for Women

The Mercer admitted its first inmate on August 28, 1880.²⁵³ Initially designed to reform women rather than to punish, its performance over the years fell short. Inspectors and superintendents of the Mercer laid part of the blame onto the various magistrates who they claimed sentenced women for too short a term, not sufficient time for reformation to be completed.²⁵⁴ As Emma O’Sullivan, a superintendent of the Mercer at the turn of the century, stated, “Short sentences militate against success.”²⁵⁵

By 1916, upon admission, each inmate was relieved of their clothing and belongings and was supplied with undergarments and a uniform, along with a book of rules to govern their

²⁵¹ Minaker 237.

²⁵² Minaker 241.

²⁵³ Carolyn Strange, “‘The Criminal and Fallen of Their Sex’: The Establishment of Canada’s First Women’s Prison, 1874-1901”, *Canadian Journal of Women and the Law*, vol. 1, no. 1, 1985, 87. For informative explorations of the Andrew Mercer Reformatory from its inception to the turn of the 20th century, see the aforementioned article by Strange, and Peter Oliver, *Terror to Evil-Doers’: Prisons and Punishments in Nineteenth-Century Ontario*, University of Toronto Press, Toronto, 1998, 424-463, and Peter Oliver, “‘To Govern by Kindness’: The First Two Decades of the Mercer Reformatory for Women,” *Crime and Criminal Justice, Essays in the History of Canadian Law*, vol. V, edited by Jim Phillips, Tina Loo, and Susan Lewthwaite, The Osgoode Society for Canadian Legal History, 1994, 516-571.

²⁵⁴ Strange, “Criminal and Fallen”, 87, 92; Emma O’Sullivan, “Women Offenders in Canada,” *Proceedings of the Annual Congress of the American Prison Association*, vol. 1908, 245-251; AO, RG 8-9, Correspondence of the Deputy Provincial Secretary, MacMurchy correspondence, B296943.

²⁵⁵ O’Sullivan 249.

conduct.²⁵⁶ Rules included not sitting nor lying on one's bed "except when you undress and retire for the night."²⁵⁷ An inmate was not allowed to complain at the table as to the "quality or quantity of the food. (. . .) Waste of food in any manner will be regarded as a serious violation of the rules and dealt with accordingly."²⁵⁸ Good conduct could result in a shortened term in the Mercer by an early release on parole, or privileges such as "writing letters or seeing relatives" more than once every two weeks.²⁵⁹ Consequences of misconduct consisted of "withdrawal of one or more privileges, the loss of good time earned, and in extreme cases solitary confinement."²⁶⁰

The daily schedule was strictly regulated and proclaimed by the sound of gongs.²⁶¹

6:30 Rising
7:00 Unlocking of the cells
7:15 Chapel
7:30 Breakfast
8:00 At place of work
12:00 Dinner
12:30 Recreation
13:00 At place of work
17:00 Supper
17:30 Recreation
18:30 Return to corridors
20:00 Lights out

²⁵⁶ AO, RG 8-9, B296943, Rules Governing Inmates of the Mercer Reformatory for the Province of Ontario, Adopted 1916; AO, RG 8-9, B296943, Inspector's Report.

²⁵⁷ AO, RG 8-9, B296943, Rules, 9.

²⁵⁸ AO, RG 8-9, B296943, Rules, 9, 10.

²⁵⁹ AO, RG 8-9, B296943, Rules, 1, 11.

²⁶⁰ AO, RG 8-9, B296943, Rules, 12.

²⁶¹ AO, RG 8-9, B296943, Rules, 13.

Part of the reformation process was to instil a proper work ethic and for inmates to learn skills that would advantage them once discharged. Mercer Industries was created, a commercial laundry and sewing factory.²⁶² According to Strange, the business was “lucrative” and “earned the province thousands of dollars each year” due to contracts such as laundry for the Canadian Pacific Railway.²⁶³ It is unclear whether the business was profitable or whether it just offset reformatory costs. In any case, in 1916, a Report on Accounting Practice discussed inmate labour.²⁶⁴ Each inmate had a daily time ticket that recorded the number of hours worked at a rate of five cents per hour.²⁶⁵ It is unclear whether the five cents an hour was to the benefit of the individual workers, or whether it was an accounting practice to provide substantiation of labour costs.

Women continued to be admitted over the years, and the number increased once Belmont had closed in 1939. A scandal at the Mercer erupted in 1964. A Grand Jury was tasked to inspect the Mercer and they reported gross mistreatment of the inmates, which was reported upon in newspaper articles such as in the *Toronto Daily Star*.²⁶⁶ The report, as described in the *Toronto Daily Star*, claimed the superintendent was unqualified, and there was no qualified teacher “since the last one employed was apprehended for shoplifting and resigned[.]” The “inmates supposedly learning typewriting are supervised by a woman who cannot type. Examination showed the

²⁶² A discussion on Mercer Industries is outside the scope of this thesis, however, a detailed analysis on inmate labour comparative to patient labour in asylums is worthy of interrogation.

²⁶³ Strange, “Criminal and Fallen”, 88, 90.

²⁶⁴ AO, RG 8-9, B296943, Report on Accounting Practice, Andrew Mercer Reformatory, Toronto, Ontario December 1916.

²⁶⁵ AO, RG 8-9, B296943, Report on Accounting Practice, 35.

²⁶⁶ Lotta Dempsey, “Girls’ Jail Shocks Grand Jury,” *Toronto Daily Star*, 5 November 1964, 1, 4.

exercise typing to be complete gibberish”, and “training and rehabilitation is such a travesty ‘the name of this institution should be changed to jail since it is in no sense a reform institution.’” In addition, the medical care was horrific, there was no dental care, and the “dungeon-like basement bucket cells used for solitary confinement are 4-by-7 feet cubicles without light or windows, furnished only with iron bed and chamber pot, the sheet-metal doors barred with 6-inch gratings. Their whereabouts was concealed from the [grand] jury.”²⁶⁷ In 1969, the Mercer officially closed and the building was demolished that same year.

Ontario Hospital, Cobourg

The property on which Cobourg was located was initially the site of Victoria College, which amalgamated with the University of Toronto in 1890 and moved to Toronto in 1892.²⁶⁸ In 1897, the trustees of Victoria College sold the nine acre property to “Her Majesty the Queen”.²⁶⁹ Five years later, in 1902, Cobourg began admitting only female patients for the care and treatment of insanity.²⁷⁰ On January 14, 1902, the first group of thirty-one women were transferred from the Ontario Hospital, Mimico. The same day, another thirty-one were transferred from the Ontario Hospital, London. Two weeks later, on January 28, twenty-nine women were admitted from the Ontario Hospital, Toronto, and one month later, forty from the

²⁶⁷ Dempsey 1. I am unable to access the Grand Jury reports regarding the Mercer Inquiry that are housed at the AO because a court order is necessary to gain access to these records; therefore, I have relied on the newspaper accounts.

²⁶⁸ The Victoria College Medical Department (later known as the Faculty of Medicine), was instituted in 1854. In 1883, Augusta Stowe (Gullen) was the first woman to graduate and receive a medical degree from a Canadian medical school. Victoria University, www.vicu.utoronto.ca/about/history_of_victoria.htm.

²⁶⁹ Province of Ontario, Land Titles, Town of Cobourg, Lot 16, Concession A.

²⁷⁰ AO, RG 10-290.

Ontario Hospital, Hamilton. At the end of March, twelve more from the Ontario Hospital, Kingston. The total number of patients transferred into Cobourg within two and one-half months was one hundred and forty-three. Only one woman was admitted during that time as a certificate case and not as a transfer. Other than the one woman just mentioned, each had previously experienced life in an asylum and ranged from age twenty-one to seventy-eight, with three-quarters of the women over the age of forty.²⁷¹

In 1917, Cobourg was seconded as a military hospital for returning soldiers of the First World War. All the women were transferred to other Ontario Hospitals until 1920 when the military hospital closed and Cobourg reopened. On August 24, 1920, fifty-six women were transferred into Cobourg and another forty-nine on August 27, for a total of one hundred and five women in four days. Only ten (less than ten percent) were under the age of forty.²⁷²

In addition to transfers, in the 1920s, Cobourg began to directly admit women from their homes for care and treatment, and was an overflow hospital for the Ontario Hospital, Orillia.²⁷³ The admission ages from 1920 compared with admissions in 1934 was startling. Over ninety women were admitted to Cobourg in 1934, however I only have birth years for seventy of them.²⁷⁴ The seventy women ranged in age from fifteen to thirty-four years old. Twenty-three of them were seventeen years old and under (thirty-three percent), and only three were in their thirties. Thirty-three of the women were between and inclusive of the ages eighteen to twenty-

²⁷¹ AO, RG 10-290.

²⁷² AO, RG 10-290.

²⁷³ This is evidenced in patient files from Cobourg.

²⁷⁴ Twenty patient files are either incomplete or missing.

two. Therefore, fifty-six of the seventy women admitted in 1934, a full eighty percent, were under the age of twenty-three.²⁷⁵ Cobourg continued to admit women over the next few decades.

During the period of deinstitutionalization in the early 1970s, (the movement to return patients to the community or to smaller, more home-like facilities),²⁷⁶ the responsibility for Cobourg was transferred to the Ministry of Community and Social Services.²⁷⁷ In 1974, Cobourg was renamed The D'Arcy Place Developmental Centre and the patients (now both men and women with developmental disabilities) were moved to a new, smaller facility on D'Arcy Street in Cobourg.²⁷⁸ A few years later, the Ontario Hospital, Cobourg, stood abandoned by the Provincial Government,²⁷⁹ but was repurposed a few decades later as a retirement home.

Conclusion

The mission of each of these institutions, with the exception of Cobourg, was initially focussed not on the punishment of women, but rather their reformation through maternal feminism. For twelve years, a woman was in charge of the Toronto Women's Court, and the Alexandra Industrial School, Belmont, and Mercer all had female superintendents and staff. Religious training was central to the theme of reformation, not only at the Alexandra Industrial School and Belmont, which were religious institutions, but also at the Mercer where attendance

²⁷⁵ AO, RG 29-58. Psychiatric diagnoses of these women is outside the scope of this thesis, but it is clear that in the 1920s and 1930s, Cobourg was no longer a hospital for the elderly.

²⁷⁶ Simmons 179-200.

²⁷⁷ AO, Ontario Government Agency History, BA104.

²⁷⁸ AO BA104.

²⁷⁹ Cessie Ross, "Old Vic: Down But Not Yet Out," *Canadian Geographic*, June/July 1987, 86-87.

at the chapel was required each morning at 7:15. At each institution it was expected that no hands should be idle. The inmates/patients were kept busy with domestic duties (such as cleaning, cooking, and sewing,) to help with the upkeep of their facility. Belmont and Mercer expanded into domestic training by creating commercial laundry services divisions to help the women acquire skills that could be transferred to the outside world once the woman was released. Cobourg, which will be discussed in The Patients chapter, focussed on placing patients out in home situations where the women could help families with housekeeping, cooking, and caring for children, while still being under the supervision of Cobourg. But while these intentions may have been honourable, the reality was fraught with internal and external difficulties and reformatory practices periodically gave way to punishment.

Chapter Four

The Patients

This chapter is divided into three sections reflecting three time periods, pre-1919, 1919-1925, and 1926 until 1935. These time periods are consistent with the major revisions in legislation regarding admissions and transfers into various institutions. I identified certain women from each time period, not necessarily as representative cases, but rather distinct examples of how the courts and institutions utilized certain statutes to increase the term of a woman's detention, how the statutes were revised over the decades, and the resultant impact on inmates and patients. For each woman, I created a flow chart which identified their path from court to ultimately, Cobourg.

The first section details four women who were institutionalized in Cobourg prior to 1919. Two women (who were widows) had alcoholic tendencies, another woman had been abandoned by her husband, and the other was arrested for bigamy. All four women were committed to an Ontario Hospital directly from jail, consistent with *The Hospitals for the Insane Act*. Each woman's patient file contained concerns about her sexuality and immorality.

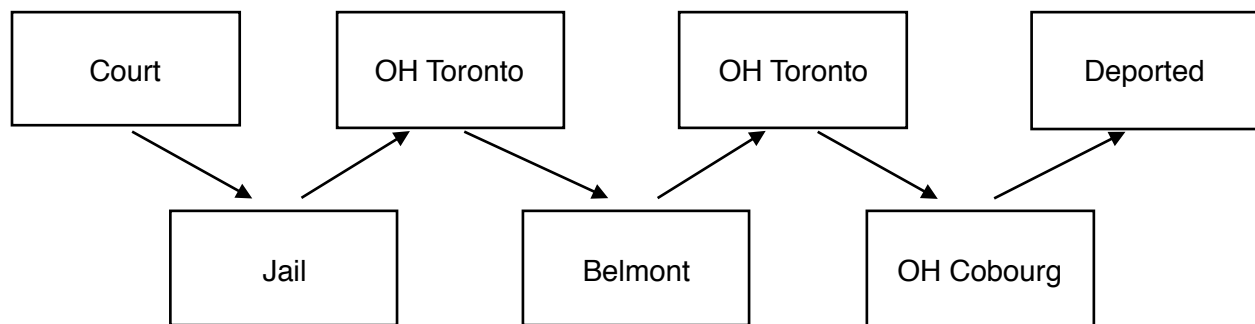
The second section discusses two women who were institutionalized between and inclusive of 1919 and 1925. One woman's behaviour, rather than insanity or feeble-mindedness, had led to her institutionalization, and while the other woman was guilty of bigamy, the doctors did not discover any signs of insanity. Both women were incarcerated in the Mercer at one point

in their lives, one for prostitution, the other, bigamy, before their admission to Cobourg. Each woman's patient file contained concerns about her sexuality and immorality.

The last section examines six women institutionalized between 1926 and 1935. During this period, more attention was focussed on women's "hereditary taint" and their paths to Cobourg began to wind through many different facilities. In 1925 the legislation was revised to allow inmates/patients to be transferred from any penal institution to any other penal institution or Ontario Hospital, and from any Ontario Hospital to any other Ontario Hospital or penal institution. The result was more movement between facilities before institutionalization in Cobourg. In addition, in 1930, the *Criminal Code* provided for the transfer of girls in industrial schools to Ontario Hospitals. Regardless of their path, each woman's patient file contained concerns about her sexuality and immorality.

Pre-1919

Alice Anderson-Walton



Alice Anderson was an example of an immigrant woman who was deported after being institutionalized in Cobourg. There is a paucity of information about her and her situation. There

was no patient file, only a patient register that listed her name, her religion, which country she was from, her occupation, marital status, education, “habits of life”, mental disorder, admission via certificate and the date, the date of discharge/deportation, and her husband’s name and address.²⁸⁰ Most information about Alice was gleaned from her deportation file.²⁸¹

Alice was born in England in the late 1860s.²⁸² She immigrated to Canada with her second husband, William Anderson, in 1903, (it is unknown what happened to her first husband), and within six weeks Anderson had deserted her.²⁸³ She struggled on her own in Toronto, working in restaurants and as a maid, until she married John Trask in April 1907.²⁸⁴ John Trask was twenty years her senior, was blind, and lived in the House of Providence, a house of charity which accommodated the elderly, homeless, widows, orphans, and immigrants.²⁸⁵ While still married to both Anderson and Trask, she married Harold Walton in the summer of 1909.²⁸⁶ In both Canadian marriage registrations, Alice used her maiden name and claimed to be a spinster.

According to Alice’s deportation file, she temporarily returned to England in 1909 of her own volition.²⁸⁷ Although I have been unable to find her travel documents back to England, I was able to uncover manifests of both Alice and Harold crossing the border into Niagara Falls, New York in the summer of 1909, for the purpose of travelling to Cleveland, Ohio to seek

²⁸⁰ AO, RG 10-290.

²⁸¹ AO, RG 63-27, Non-Native Asylums Returns.

²⁸² AO, RG 63-27.

²⁸³ AO, RG 63-27; *Toronto Daily Star*.

²⁸⁴ AO, MS 932, Ontario, Canada, Marriages, 1801-1928, John Trask; *Toronto Daily Star*.

²⁸⁵ LAC, RG 31-C-1, 1901; LAC, RG 31, 1921, John Trask; “House of Providence,” <https://www.providence.on.ca/about-us/who-we-are/our-history>.

²⁸⁶ AO, MS 932, Harold Walton.

²⁸⁷ AO, RG 63-27.

employment for Harold as a painter.²⁸⁸ Eventually they did make their way to England, because in January 1910, Alice and Harold sailed back to Canada and boarded a train in Halifax to their final destination of Toronto.²⁸⁹

On the same day in March 1910, Harold and Alice appeared in the Toronto Police Court; Harold was charged with wounding and Alice was charged with bigamy.²⁹⁰ While working as a painter, Harold had stabbed his employer in the head with a putty knife three times.²⁹¹ It is unknown whether Harold pled guilty. Nonetheless, Magistrate Denison sentenced him to sixty days hard labour in jail.²⁹² Later in the day, Alice had pleaded her own case to Magistrate Denison. She claimed desertion by a previous husband and that Harold Walton was the only husband who was ever good to her. The magistrate dismissed her explanation and stated, “The doctors say you are not in your right mind. You appear to have a most extraordinary view on these points, so I’ll change that charge of bigamy to insanity.”²⁹³ If Alice had been convicted for the offence of bigamy under the *Criminal Code*, she would have been liable to seven years imprisonment.²⁹⁴ Instead, she was committed as a lunatic to the Hospital for the Insane, Toronto, but only after she had been held in custody in the Toronto jail for 126 days.²⁹⁵ This was contrary to the 1906 *Act to amend the Act respecting Lunatic Asylums, and the Custody of Insane Persons*.

²⁸⁸ National Archives, Washington, D.C., U.S. Border Crossings From Canada to U.S., 1895-1956.

²⁸⁹ AO, RG 63-27; LAC, RG 76-C, Passenger Lists, 1865-1935.

²⁹⁰ *Toronto Daily Star*; AO, RG 20-100, Administrative Records of the Toronto Jail. It is unknown how it was discovered that Alice was a bigamist/polygamist.

²⁹¹ *Toronto Daily Star*.

²⁹² *Toronto Daily Star*; AO, RG 20-100.

²⁹³ *Toronto Daily Star*.

²⁹⁴ *Criminal Code*, R.S.C. 1906, c. 146, s. 308.

²⁹⁵ AO, RG 20-100.

Individuals who were presumed insane were not to be committed to jail, but rather to be “confined in some safe and comfortable place,” although the safe and comfortable place was left undefined.²⁹⁶

Alice was transferred and admitted to the Hospital for the Insane, Toronto in August 1910.²⁹⁷ In early October, Dr. Helen MacMurchy requested of the Inspector of Prisons and Public Charities for Ontario that Alice be discharged from the Hospital for the Insane, Toronto and admitted to Belmont.²⁹⁸ Within ten days of Alice’s arrival to Belmont, the superintendent notified the superintendent of the Hospital for the Insane, Toronto, that she was returning Alice because she was “altogether unsuitable for residence there [Belmont], that she is insubordinate, destructive and dangerous.”²⁹⁹ Alice was removed by the Provincial Bailiff and transferred back to the Hospital for the Insane, Toronto, possibly admitted on a certificate in accordance with the 1897 Act.³⁰⁰

Alice was subsequently transferred to Cobourg in January 1911.³⁰¹ On July 24, the medical superintendent for Cobourg wrote to the Inspector of Prisons and Public Charities for Ontario and briefly provided Alice’s history, which included a diagnosis of dementia praecox,

²⁹⁶ *An Act to amend the Act respecting Lunatic Asylums, and the Custody of Insane Persons*, S.O. 1906, c. 61, s. 15.

²⁹⁷ AO, RG 63-27.

²⁹⁸ The inspector, by direction of the Lieutenant-Governor, under the *Act Respecting Lunatic Asylums and the Custody of Insane Persons*, R.S.O. 1897, c. 317, s. 26, had the authority to discharge a patient from a Hospital for the Insane.

²⁹⁹ AO, RG 63-27.

³⁰⁰ AO, RG 63-27; *An Act Respecting Lunatic Asylums and the Custody of Insane Persons*, R.S.O. 1897, c. 318, s. 9.

³⁰¹ AO, RG 63-27; AO, RG 10-290.

paranoid.³⁰² The superintendent claimed that Alice was asking to be deported. “Some person would have to accompany her as far as Montreal but she would not give any trouble whatever once on board ship.”³⁰³ Whether Alice wished to be repatriated or not, the *Immigration Act* stipulated that an individual entered a probationary period of three years upon landing in Canada in which the person had to establish domicile.³⁰⁴ If within that three-year period the individual became an inmate of “a penitentiary, jail, reformatory, prison, hospital, insane asylum, or public charitable institution,” that person could be deported.³⁰⁵ But Alice had already lived in Canada for over three years, specifically from 1903 to 1909, when she temporarily left Canada for five months. However, when Alice met John Trask, a resident of the House of Providence, she may have also been a resident in that public charitable institution, which would have made her a public charge.

By the end of August the deportation papers had been completed and submitted, and the deportation had been ordered.³⁰⁶ On September 1 it was confirmed that an officer would collect Alice in due course and “if you will have the patient ready to travel when the officer calls for her.”³⁰⁷ Alice was discharged from Cobourg in October 1911 and travelled with an officer to

³⁰² AO, RG 63-27.

³⁰³ AO, RG 63-27. Robert Menzies distinguished between official deportation from Canada and informal repatriation done with the consent of the patient or their family or friends. I have found that it is difficult to discern official versus informal in patient records. Robert Menzies, “Governing Mentalities: The Deportation and ‘Insane’ and ‘Feeble-minded’ Immigrants Out of British Columbia From Confederation to World War II,” *Canadian Journal of Law and Society*, vol. 13, no. 2, Fall 1998, 142.

³⁰⁴ *Immigration Act*, S.C. 1910, c. 27, s. 2(d).

³⁰⁵ *Immigration Act*, S.C. 1910, c. 27, s. 40.

³⁰⁶ AO, RG 63-27.

³⁰⁷ AO, RG 63-27.

Montreal to await her deportation sailing.³⁰⁸ Alice boarded her ship, alone, back to her brother's home in London, England at the beginning of November 1911.³⁰⁹ I have been unable to track Alice past this point.³¹⁰

If Alice would have been convicted of bigamy, she could have served seven years in a correctional facility or penitentiary. Having been committed as a lunatic, she served approximately four months in the Toronto jail and spent fifteen and one-half months in an asylum before she was deported.

Bertha Baldwin



I chose Bertha Baldwin because her route to Cobourg was different from the other women presented in this section. Bertha was likely convicted of a summary conviction offence, possibly theft, and sent to a House of Refuge, consistent with the 1897 *Act respecting Houses of Refuge for Females*.³¹¹ She was subsequently transferred from the House of Refuge to a jail, also

³⁰⁸ AO, RG 63-27.

³⁰⁹ National Archives of the UK, Board of Trade: Commercial and Statistical Department and Successors: Inwards Passenger Lists, 1878-1960.

³¹⁰ What happened to Harold Walton? After he was released from jail he ventured back to Cleveland, Ohio to seek employment. Harold returned to Toronto and married a woman in 1915 and another woman in 1916. I was unable to locate a death record for the woman in 1915. He enlisted in the Canadian Over-Seas Expeditionary Force in 1915 and re-enlisted in 1916. It is possible he may have died in World War I.

³¹¹ *An Act respecting Houses of Refuge for Females*, R.S.O. 1897, c. 311, s. 2.

consistent with the Act, and was ultimately admitted to Cobourg. Her story also offers an example of an elderly woman's experience in institutions.

According to Bertha's patient file from Cobourg, she was likely born in Ontario in 1841.³¹² She came from a "very respectable family" and her father had been involved in government, although his position was not stated. She received "an excellent education" and was employed as a school teacher in both Hastings and Prescott counties. It was claimed by Bertha that she had married twice, the first marriage ended in divorce and her second husband had died. This was disputed by Mr. Gauthier, the magistrate, who stated that Bertha had only been married once, and by Dr. Gustave Gaston Smith who claimed Bertha had never been married.³¹³ In any case, in 1912 it was written in her patient file that she had two children, and both were dead.

In the early 1890s, Bertha was fifty years old, had become "a victim of alcohol", and was living the life of a vagrant, wandering throughout Eastern Ontario. In Belleville, she was convicted of theft for "stealing goods" from a store and was sentenced to a six month jail term. It was written in her patient file that in addition to Belleville, she was convicted and imprisoned in Ottawa and in other places for theft.³¹⁴ Bertha was transferred from either court or jail into the House of Refuge in L'Orignal, Ontario under the 1897 *Act respecting Houses of Refuge for*

³¹² AO, RG 29-58. Unless otherwise stated, all information regarding Bertha is from Bertha's Cobourg patient file.

³¹³ Due to a lack of personal information about Bertha, including her maiden name, I have been unable to confirm any marriages or any children.

³¹⁴ I did not have access to jail records for Ottawa or Belleville and have been unable to substantiate these claims.

Females, or more likely, the federal version *An Act Respecting Houses of Refuges for Females in Ontario*, if she was convicted of theft, an offence under the *Criminal Code*.³¹⁵

In March 1911, when Bertha was seventy years old, she was stealing from other inmates (doctors noted she was a kleptomaniac), used “very immoral language,” and the staff was concerned she would commit arson. The superintendent, Sister St. Felix de Valois, wrote in support of transferring Bertha to an asylum and provided details of her conduct: “She washes herself in the water closets. I spoke reason with her and she acted so that we had to put hand cuffs [sic]. In the cell she created disturbance, annoying the other inmates by her screams and beating and knocking at walls.”

Two physicians examined her in accordance with the 1897 *Act respecting Lunatic Asylums and Custody of Insane Persons Act* for admission by certificate.³¹⁶ Both doctors indicated she was a chronic alcoholic. Dr. Eugene Gregorie Quesnel emphasized that Bertha was “well educated and talks very rationally or logically” but her conduct was “very vicious both in words and deeds.” Dr. Gustave Gaston Smith wrote briefly about her “mania of stealing” but focussed on Bertha’s “immoral character.” His opinion was “with senile dementia I do not hesitate to say that she is totally morally perverted” and “completely insane.”

Apparently, Bertha was denied admission to a Hospital for the Insane because she remained at the L’Orignal House of Refuge for another year. In March 1912, the superintendent of the Refuge wrote to J. Maxwell, the Crown Attorney for the area, and pleaded her case yet again: “When I took charge I found that the woman had to be locked up every night. [. . .] At

³¹⁵ *An Act respecting Houses of Refuge for Females*, R.S.O. 1897, c. 311, s. 2; *An Act respecting Houses of Refuge for Females in Ontario*, S.C. 1894, c. 60, s. 2.

³¹⁶ *An Act respecting Lunatic Asylums and Custody of Insane Persons*, R.S.O. 1897, c. 317, s. 7.

night we could not give her any freedom, wander about the house, so that we were forced to keep her in the cell.” Maxwell, in turn, wrote a letter to J.C. Mitchell, the medical superintendent for the Hospital for the Insane, Brockville. The patient file did not contain a response letter from superintendent Mitchell, but at some point between March 25 and April 1, Bertha was removed from the House of Refuge to the L’Original Jail.³¹⁷ According to both the federal and provincial *Houses of Refuge for Females Acts*, an inmate could only be transferred from the House of Refuge to a jail or to “any other place of imprisonment.”³¹⁸ This did not include any Hospitals for the Insane.

Two physicians examined Bertha, separately, on April 1 at the L’Original jail. Dr. Gustave Gaston Smith essentially repeated in his physician’s certificate from a year previous, that Bertha was “morally perverted”, “a dyspomaniac and kleptomaniac.” Although this time there may have been guidance on wording. “Her position in the House of Refuge was so bad that the Superintendent and myself had to remove her to the County Jail. She is not fit to be kept with others.” Dr. Richard A. Pattee wrote “Jailor says she is immoral and not fit to be in anyone’s company. She is very insane at times but cunning enough to converse very nicely with strangers[.]”

In accordance with *An Act respecting Lunatic Asylums and Custody of Insane Persons*, a Warrant for Removal to Hospital was signed April 15, 1912, by the Inspector of Prisons and Public Charities and Bertha Baldwin was admitted to the Hospital for the Insane, Brockville on

³¹⁷ L’Original Jail was the oldest and only francophone jail in Ontario. “L’Original Old Jail,” <https://www.ottawatourism.ca/capital-country-drives-location/loriginal-old-jail/>. Bertha may have been bilingual as there were no notes in her patient file that she was unable to speak English fluently.

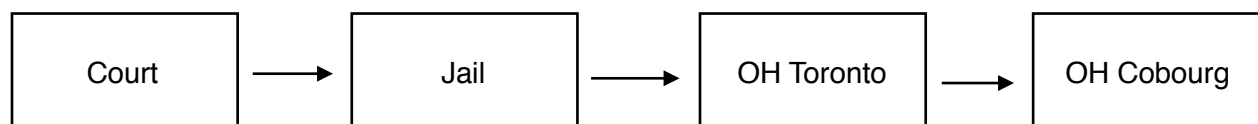
³¹⁸ *An Act respecting Houses of Refuge for Females in Ontario*, S.C. 1894, c. 60, s. 4; *An Act respecting Houses of Refuge for Females*, R.S.O. 1897, c. 311, s. 4.

April 18, 1912.³¹⁹ A month later a conference was held amongst Brockville’s doctors and Bertha was diagnosed “dementia induced by alcohol.”

In 1913 she was noted as disagreeable but never excited, “never cries or laughs,” and her kleptomania had not decreased. By 1920 her mental and physical condition had deteriorated and her stealing had increased. Bertha was transferred to Cobourg where she continued to deteriorate. In June 1921, she developed hypostatic pneumonia and was given a couple of days to live. A month later her patient file noted Bertha was in “fair physical health” but mentally weaker. By July 1922 she was “in good health, giving little or no trouble.” Bertha succumbed to pneumonia in 1924 at the age of 83.³²⁰

The last thirteen years of Bertha’s life was spent incarcerated and institutionalized. While it is unknown what specific offence led to Bertha’s admission to the House of Refuge, it was possibly a summary conviction offence. She remained in the House of Refuge for over one year. It may be argued that given her mental deterioration, the only option for Bertha’s welfare was institutionalization. It may also be argued that Bertha had no opportunity to provide input into her own future.

Cornelia Campbell



³¹⁹ *An Act respecting Lunatic Asylums and Custody of Insane Persons*, R.S.O. 1897, c. 317, s. 27.

³²⁰ AO, MS 935, Ontario, Canada, Deaths, 1869-1936 and Deaths Overseas, 1939-1947.

Cornelia Campbell offers an excellent example of race and institutionalization, a topic that is beyond the scope of this thesis but will be discussed briefly. Cornelia was defined in her patient file as ‘mulatto’, ‘coloured’, and ‘African’, racial descriptions that were rarely noted in the files of patients who were white.³²¹ Doctor’s observations included, “characteristic curly hair of her race”, “she sings and mutters ragtime songs in true negro fashion”, and “her looks are typical of her race, and lips even thicker than usually seen.”³²² Aside from the comments, I cannot conclude that Cornelia’s care and attention in the asylums was different from any other patient, except for the question of her medical treatment, which I discuss shortly. There was no indication that she was ever physically separated from the other patients due to her race. This is significant because scholars who have written about race and institutionalization in South Africa, Jamaica, and India commented about asylums for privileged white British people, physically separated from other races.³²³ There was also at least one asylum in the United States built for

³²¹ AO, RG 29-58.

³²² AO, RG 29-58.

³²³ For further information about race and institution in other countries, see Harriet Jane Deacon, “Madness, Race, and Moral Treatment: Robben Island Lunatic Asylum, Cape Colony, 1846-1890,” *History of Psychiatry*, no. 7, 1996, 287-297; Sally Swartz, “Lost Lives: Gender, History and Mental Illness in the Cape, 1891-1910,” *Feminism & Psychology*, vol. 9, no. 2, 1999, 152-158; Johann Louw and Sally Swartz, “An English Asylum in Africa: Space and Order in Valkenberg Asylum,” *History of Psychology*, vol. 4, no. 1, 2001, 3-23; Sally Swartz, *Homeless Wanderers: Movement and Mental Illness in the Cape Colony in the Nineteenth Century*, UCT Press, 2015; Leonard Smith, *Insanity, Race and Colonialism: Managing Mental Disorder in the Post-Emancipation British Caribbean, 1838-1914*, Palgrave Macmillan, 2014; Leonard Smith, “Caribbean Bedlam: The Development of the Lunatic Asylum System in Britain’s West Indian Colonies, 1838-1914,” *The Journal of Caribbean History*, vol. 44, no. 1, 2010, 1-47; Margaret Jones, “The Most Cruel and Revolting Crimes: The Treatment of the Mentally Ill in Mid-Nineteenth Century Jamaica,” *Journal of Caribbean History*, vol. 42, no. 2, 2008, 290-309; James H. Mills, *Madness, Cannabis and Colonialism: The ‘Native-Only’ Lunatic Asylums of British India, 1857-1900*, St. Martin’s Press, Inc., 2000; Waltraud Ernst, “European Madness and Gender in Nineteenth-Century British India,” *Social History of Medicine*, vol. 9, no. 3, 1996, 357-382; Waltraud Ernst, “Medical/Colonial Power: Lunatic Asylums in Bengal, c. 1800-1900,” *Journal of Asian History*, vol. 40, no. 1, 2006, 49-79.

African-American individuals.³²⁴ Although Canada did not have separate hospitals for certain races, Ken Scott's scholarly article described a Hospital for the Insane in British Columbia which provided separate housing facilities and work details for Asian men apart from the white men, while Asian women were integrated with the white women.³²⁵

However, Cornelia was already suffering from a venereal disease when she was incarcerated in the jail, and her medical treatment, or lack thereof, was different from other patients. This venereal disease was not named (until her death) or discussed in her clinical patient file, nor does it seem she was treated for it. Understanding that patient files have been purged over the years, perhaps there had been medical notes that were destroyed. But in other patient files I have reviewed, there usually has been at least a mention of a type of treatment in the doctor's notes, if not necessarily the details of the treatment.³²⁶

Cornelia Campbell was born Cornelia Franklin in 1884 in Toronto.³²⁷ Her father was James Franklin, an African American who immigrated to Canada in 1870 from the area of Baltimore, Maryland where he had worked with tobacco.³²⁸ Cornelia grew up with her mother, father, two older sisters and one older brother in the house, along with her maternal aunt who

³²⁴ Central State Hospital, formerly known as the Central Lunatic Asylum for Colored Insane, located in Virginia.

³²⁵ Ken Scott, "Society, Place, Work: The BC Public Hospital for the Insane, 1872-1902," *BC Studies*, vol. 171, Autumn 2011, 93-110.

³²⁶ Two other patients included in this thesis, Edith Evans and Lily Langford, both had notations in their patient files that they suffered from syphilis. Edith was examined in November 1918 and had gonorrhoea and syphilis. I expect she received treatment because her Wassermann test was negative in 1922. Lily was found to have syphilis when she was confined in the Mercer in 1923. She received treatment and by April 1924 the laboratory findings were negative for syphilis.

³²⁷ LAC, RG 31-C-1, 1901.

³²⁸ LAC, RG 31-C-1, 1901. I hesitated to write "employed" as research indicated he was likely a slave on a tobacco plantation in Baltimore. But I have been unable to confirm this with one hundred percent accuracy.

was “deaf and dumb” and later institutionalized in the Hospital for the Insane, Toronto, and her maternal uncle who in 1891 was in the Toronto jail.³²⁹ Their home for decades was situated in St. John’s Ward, also known as “The Ward”, an area of Toronto known to Torontonians in the early twentieth century as a geographic area of poverty inhabited by immigrants, including “78 percent of the black population.”³³⁰

Cornelia’s father, James, was employed as a tobacco worker with one of Toronto’s tobacco companies.³³¹ He owned their home and in the early 1900s rented out a room to a John Campbell, a porter at the Grand Union Hotel.³³² Shortly thereafter, John, now working as a labourer,³³³ married Cornelia.³³⁴ Cornelia claimed she was pregnant at the time of marriage, which was confirmed by her daughter’s date of birth.³³⁵ They continued to live with Cornelia’s parents for years after their marriage. In December 1910, John died after a five day bout with pleurisy and pneumonia, leaving Cornelia a twenty-six year old widow with a six year old daughter.³³⁶

³²⁹ LAC, RG 31-C-1, 1881, 1891, 1901; AO, RG 10-268, Queen Street Mental Health Centre Admission Warrants and Histories.

³³⁰ Glasbeek 85. St. John’s Ward was the area of Bloor Street to the North, Queen Street to the South, Yonge Street to the East, and College Street (name changed to University Avenue) to the West.

³³¹ Might’s Directories Ltd., *Metropolitan Toronto, York County, Ontario, City Directories*, 1833-2001.

³³² Might’s.

³³³ Might’s.

³³⁴ AO, MS 932.

³³⁵ AO, RG 29-58; AO, MS 929.

³³⁶ AO, MS 935.

Cornelia was brought to court in April 1912 after “acting strange as if under the influence of drink.”³³⁷ I believe she may have been detained under a section of the 1906 *An Act to Amend The Act respecting Lunatic Asylums, and the Custody of Insane Persons*, which stated:

Any person apparently insane and conducting himself in a manner which in a sane person would be disorderly, may be apprehended without warrant by any constable or peace officer and detained in some safe and comfortable place until the question of his sanity be determined as prescribed by section 21 hereof.³³⁸

The exception to the “detained in some safe and comfortable place” was if the individual was “violent and dangerous.”³³⁹ Cornelia was admitted to the Toronto jail suffering from delirium tremens.³⁴⁰ Within a couple of days of her custody in the Toronto jail, two medical doctors completed physician’s certificates to comply with the above noted Act to transfer an individual to an asylum.³⁴¹ They noted that she was “wild and excited”, “calling and shouting”, spitting at everyone, required “mechanical restraint”, and “passes her urine and faeces in bed.”³⁴² Magistrate Denison committed her as a lunatic with her sentence to expire after two months.³⁴³ I have not discovered any Act in which a magistrate had the authority to commit an individual as a lunatic, and then sentence them for a defined period. According to section 21 of the above

³³⁷ AO, RG 29-58.

³³⁸ *An Act to amend The Act respecting Lunatic Asylums, and the Custody of Insane Persons*, S.O. 1906, c. 61, s. 14.

³³⁹ *An Act to amend The Act respecting Lunatic Asylums, and the Custody of Insane Persons*, S.O. 1906, c. 61, s. 15.

³⁴⁰ AO, RG 29-58. According to Webster’s Dictionary, delirium tremens is defined as “[a] violent delirium, induced by excessive and prolonged use of alcoholic liquors, characterized by terrifying hallucinations, motor excitement, and tremor of hands and tongue.”

³⁴¹ AO, RG 29-58.

³⁴² AO, RG 29-58.

³⁴³ AO, RG 20-100.

mentioned Act, if the magistrate “is satisfied that such alleged insane person is insane and dangerous to be at large, he shall certify accordingly[.]”³⁴⁴ Thereafter, he must submit all prescribed documents, including the two physician’s certificates, to the Inspector of Prisons and Public Charities who coordinates the transfer of the individual to an asylum.³⁴⁵ Even under the *Criminal Code*, if an insane person was imprisoned, only the Lieutenant-Governor had the authority to transfer or discharge the individual.³⁴⁶ Once committed, there should not have been a sentence involved. Nevertheless, after two months imprisonment in the Toronto jail, Cornelia was transferred to the Hospital for the Insane, Toronto.³⁴⁷

Upon admission to the Ontario Hospital, Toronto, Cornelia’s history was recorded and she admitted “to the excessive use of alcohol, drinking Seagram’s whiskey quite freely.” She spoke of her “improper relations with various men” on numerous occasions, however, she was emphatic that she had not been a prostitute. The first mention of a disease was captured in her admission notes. “Upon admission here she is said to have a specific disease, there are several sores on her body, but these appear to be of mechanical origin. She says she visited Dr. Smith, and he told her that she had the worst disease that was going, although she did not feel very

³⁴⁴ *An Act to amend The Act respecting Lunatic Asylums, and the Custody of Insane Persons*, S.O. 1906, c. 61, s. 21.

³⁴⁵ *An Act to amend The Act respecting Lunatic Asylums, and the Custody of Insane Persons*, S.O. 1906, c. 61, s. 22.

³⁴⁶ *Criminal Code*, R.S.C. 1906, c. 146, s. 970.

³⁴⁷ AO, RG 29-58.

sick.”³⁴⁸ I believe Cornelia had been diagnosed with syphilis, which likely would have been tested for by the Wassermann reaction test.³⁴⁹

The doctors wrote that since admission, Cornelia had been well, quiet, not “noisy or violent”, and had been no trouble, although known to be mischievous. “She interferes with the locks, which she has found out how to open by means of a hair pin or bit of wire.” At her case conference, she was diagnosed by one of the doctors as having alcoholic hallucinosis. One of the other doctors preferred the diagnosis of dementia praecox of the catatonic variety. Her mental health elicited doctor’s notations such as in 1914, “This patient is very pleasant to talk to and goes out for a while each day.” In 1916, “[i]s generally good natured and passes amusing remarks about everything she sees.” Two years later, “[s]he is generally pretty sharp and notices what is going on.” She was transferred to Cobourg in 1920 as an “old case of praecox.”³⁵⁰

Upon admission to Cobourg there were concerns regarding Cornelia’s physical health. The clinical notes focussed on Cornelia’s stooped “deformity” and her difficulties with eating. Cornelia passed away three years later in 1923 due to exhaustion from tertiary syphilis.³⁵¹ She was thirty-nine years old.³⁵²

When Cornelia was told she had the “worst disease that was going”, there was no indication that she was treated for syphilis at any point prior to or during her institutionalization,

³⁴⁸ AO, RG 29-58.

³⁴⁹According to John Firth, the Wassermann reaction test for syphilis (amongst other diseases) was developed in 1906 in Germany. John Firth, “Syphilis - It’s Early History and Treatment Until Penicillin and the Debate on its Origins,” *Journal of Military and Veterans’ Health*, vol. 20, no. 4. November 2012. I do not know when the test was first used in Ontario institutions.

³⁵⁰ AO, RG 29-58.

³⁵¹ AO, RG 29-58; AO, MS 935.

³⁵² What happened to Cornelia’s daughter? Cornelia’s oldest sister took her in and raised her.

although medicines were available.³⁵³ Treatments for syphilis originated at least as early as the 1500s with mercury.³⁵⁴ By World War I, soldiers were routinely treated with injections of Salvarsan and/or bismuth.³⁵⁵ Other treatment options soon followed. *The Venereal Diseases Prevention Act* came into force July 1, 1918.³⁵⁶ The statute provided for the medical officer of health to examine any individual who was “under arrest or in custody charged with an offence against The Criminal Code of Canada or against any Statute of Ontario or any by-law, regulation or order made under the authority thereof, or has been committed to a gaol, reformatory or other place of detention upon conviction of such offence[.]”³⁵⁷ If the individual was found to be infected with a venereal disease (which was defined as syphilis, gonorrhoea, and chancroid),³⁵⁸ the person had to be treated for that disease.³⁵⁹ The Act also provided for examinations and treatments in any hospital that received aid under *The Hospitals and Charitable Institutions Act*, which included Hospitals for the Insane.³⁶⁰

Cornelia was admitted to the Ontario Hospital, Toronto in 1912, six years prior to the enactment of *The Venereal Diseases Prevention Act*, and was still confined in the Ontario Hospital, Toronto when the Act came into force. Why was she not treated for syphilis when it

³⁵³ AO, RG 29-58.

³⁵⁴ Firth.

³⁵⁵ Firth.

³⁵⁶ *The Venereal Diseases Prevention Act*, S.O. 1918, c. 42, s. 16.

³⁵⁷ *The Venereal Diseases Prevention Act*, S.O. 1918, c. 42, s. 3(1).

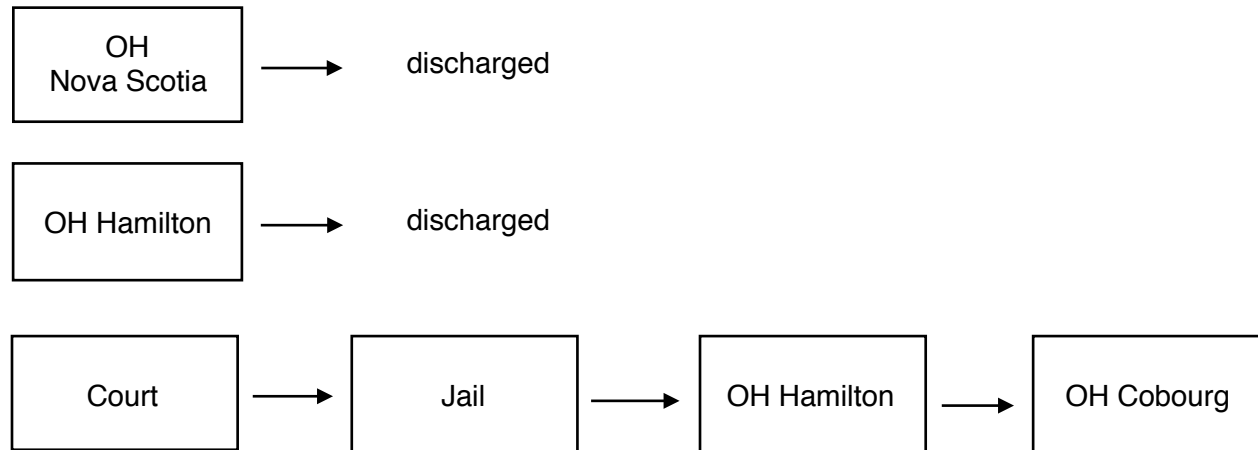
³⁵⁸ *The Venereal Diseases Prevention Act*, S.O. 1918, c. 42, s. 2(e).

³⁵⁹ *The Venereal Diseases Prevention Act*, S.O. 1918, c. 42, s. 3(2).

³⁶⁰ *The Venereal Diseases Prevention Act*, S.O. 1918, c. 42, s. 5(1). The list of public institutions is found in Schedule “A” of *An Act for granting to His Majesty certain sums of money for the Public Service of the financial year ending on the 31st day of October, 1918, and for the Public Service of the financial year ending the 31st day of October, 1919*, S.O. 1918, c. 1.

was a requirement by 1918? Perhaps if she had been treated for syphilis, she may not have been institutionalized for eleven years until her death.

Daisy Duncan



The story of Daisy Duncan is included in this thesis because she was a woman who was sterilized in 1914 while institutionalized in the Hospital for the Insane, Hamilton. While the subject of eugenics is a very broad topic and tangential to the focus of this thesis, it is instructive to discuss sterilization within the story of a woman's life.

By way of background, negative eugenics demanded segregation and/or sterilization of individuals who were considered unfit to reproduce as determined by people in positions of authority, including governmental and medical.³⁶¹ These categories had variously included the poor, criminals, insane (including alcoholics), feeble-minded, immoral, any race that was not white, and any ethnicity that was not of a British extraction. The concern was not just with the

³⁶¹ For two excellent books on eugenics in Canada, see Angus McLaren, *Our Own Master Race: Eugenics in Canada, 1885-1945*, McClelland & Stewart Inc., 1990, and Erika Dyck, *Facing Eugenics: Reproduction, Sterilization, and the Politics of Choice*, University of Toronto Press, 2013.

prospect of the country overpopulated by those of lesser classes, but also the costs that would have drained society's funds to feed, house, and care for those who were unable to support themselves and their illegitimate children.

The 1919 Ontario Royal Commission Report on The Care and Control of the Mentally Defective and Feeble-minded in Ontario had recommended that "The feeble-minded female of child-bearing age . . . should be detained indefinitely."³⁶² Others were more in favour of sterilization, most notably Superintendent R.C. McLeod of Edmonton, who at the 1924 conference of the Canadian Association of Child Protection Officers argued, "if the state authorities would pay as much attention to the class of children as to the types of livestock, the whole problem would be solved in one generation."³⁶³ For McLeod, the ideal solution was to "take those who could not be socialized and chloroform them. Then he [sic] would take parents who produced that type of child and make it impossible for them to add to the country's population of unfits."

Although Alberta and British Columbia did enact sexual sterilization laws,³⁶⁴ and it was claimed to be less expensive to society than segregation,³⁶⁵ other provinces opted for institutionalization.³⁶⁶ Somewhat pragmatically, some eugenicists were concerned that

³⁶² Ontario Royal Commission, *Report on the Care and Control of the Mentally Defective and Feeble-minded in Ontario*, A.T. Wilgress, 1919, 126.

³⁶³ "Thinks Hopeless Imbeciles Ought to be Chloroformed," *The Toronto Daily Star*, 24 June 1924, 3.

³⁶⁴ Alberta - *The Sexual Sterilization Act*, R.S.A., 1928, c. 37; British Columbia - *An Act Respecting Sexual Sterilization*, R.S.B.C. 1933, c. 59.

³⁶⁵ John P. Radford, "Sterilization Versus Segregation: Control of the 'Feeble-minded', 1900-1938, *Social Science & Medicine*, vol. 33, no. 4, 1991, 453.

³⁶⁶ In the 1930s, Manitoba and Ontario declined to pass a sexual sterilization law. Angus McLaren, *Our Own Master Race: Eugenics in Canada, 1885-1945*, McClelland & Stewart Inc., 1990, 91.

sterilization would have only halted procreation and might have provided an unintended consequence of unencumbered freedom to pursue sexual activities with no fear of pregnancy.³⁶⁷ Immoral behaviours could have increased, along with venereal diseases. Therefore, institutionalization was generally encouraged by medical authorities such as Dr. Helen MacMurchy, who was one of Ontario's pre-eminent public health experts and advisors, a strong proponent of segregation, and had argued that institutionalization was a more economical route than "if the feeble-minded roamed free."³⁶⁸ But MacMurchy still held strong beliefs in sterilization of the feeble-minded, along with insane individuals and habitual criminals.³⁶⁹

Daisy was born in Nova Scotia in 1886.³⁷⁰ She was an only child and three years old when her mother died, and her father passed away a couple of years later. It is unknown who raised Daisy although it was noted in her patient file that she had "made good progress" at school.³⁷¹ Daisy had left school at the age of fourteen to work as a domestic and in 1904 she met and married Robert Duncan, a factory hand. He was abusive to her during their marriage and after five or six years he abandoned her and their two small daughters. Robert returned home only to transport Daisy to the asylum in Halifax where he left her for a year. In 1911, he had her

³⁶⁷ McLaren 98.

³⁶⁸ McLaren 39. MacMurchy had personal experience with this situation as her domestic servant Betty Richardson had a daughter, Beth, who was institutionalized in Cobourg, and a son, John, institutionalized in Whitby. (Although after creating the Richardson family tree, I believe Beth was actually the daughter of John and the granddaughter of Betty.) Nonetheless, in the event of Beth's death, it was noted in the Cobourg file that the notification was to be sent to Dr. Helen MacMurchy, Chief, Division of Child Welfare, Elgin Building, Ottawa. In addition, MacMurchy had written about Beth "Both Beth and her brother John were mentally deficient, although not without intelligence, and Beth's memory and her ability to assist her mother were remarkably good." AO, RG 29-58.

³⁶⁹ McLaren 42.

³⁷⁰ AO, RG 29-58.

³⁷¹ AO, RG 29-58.

released into his custody and they relocated to his sister's home in Hamilton, Ontario where she was again abandoned.³⁷² Daisy immediately began working as a domestic to support herself.³⁷³

In July 1913, Daisy gave birth to an illegitimate daughter and was living at the Home of the Friendless and Infants' Home in Hamilton.³⁷⁴ Afterwards she became depressed, uninterested in her surroundings, and refused food.³⁷⁵ Doctors English and McGillivray examined her and in September 1913, she was admitted to the Hospital for the Insane, Hamilton, as a certificate case. After admission, she was diagnosed with catatonic dementia praecox. By the end of the year her condition had improved markedly. The doctors noted that "[s]he is very neat and cleanly in her person and her behaviour is exemplary" although her "tone of voice and general attitude are such as might be looked for in a not very bright child of 12 or 14 years of age." Much was made of her lack of self-consciousness in discussing her "immorality" and concern over her "ethical sense". "She appears to be either congenitally defective or markedly deteriorated although she is a very willing and capable worker."³⁷⁶

The January 19, 1914, entry stated "[t]oday patient was sterilized. Dr. English tying both tubes." Although *The Hospitals for the Insane Act* provided for the superintendent to "direct and control the treatment of the patients,"³⁷⁷ I argue that this section did not allow for the unfettered

³⁷² Research indicated that one of the daughters was left with an uncle in Nova Scotia and the other accompanied Daisy and Robert to Hamilton.

³⁷³ AO, RG 29-58.

³⁷⁴ AO, RG 29-58; AO, MS 929.

³⁷⁵ AO, RG 29-58.

³⁷⁶ AO, RG 29-58.

³⁷⁷ *The Hospitals for the Insane Act*, S.O. 1913, c. 83, s. 5(2)(a).

power of a doctor to perform a non-consensual sterilization on a patient.³⁷⁸ Support for this may be inferred from the fate of Dr. John Godfrey's 1912 bill.³⁷⁹ The *Canada Law Journal* reported that the bill requested an Act that authorized:

the Lieutenant-Governor-in-Council to appoint for each of the provincial institutions for the care of the insane, feeble-minded and epileptic, boards of skilled surgeons whose duty it would be to examine their inmates, and, under certain safeguards, and when advisable, to perform operations which would prevent the procreation of children by those who might thus be declared unfit for parentage.³⁸⁰

For reasons unknown, Dr. Godfrey withdrew his bill before March 1912.³⁸¹ As mentioned previously, Ontario never enacted a law for sexual sterilization, preferring segregation instead.

One month after Daisy's sterilization, the clinical record entry read, "Patient recovered from operation without any unfavourable symptoms. Was rather irritable and cranky." Daisy was discharged "recovered" from the Hospital for the Insane, Hamilton in June 1914 as she was in excellent physical health, was a "very industrious worker", and had found a job in Burlington at a hotel employed as a waitress and clerk.³⁸² Daisy worked at the Burlington hotel for two years

³⁷⁸ There was no indication in the file that consent was requested of the Crown, or of the Inspector of Prisons and Charities, or of anyone. Admittedly, this file, like most other files, has been purged of numerous documents. However, in other files I have reviewed, there have been notes written in the clinical records that sterilization (and other elective surgeries) had been requested of the Crown prior to the implementation of any medical procedure.

³⁷⁹ McLaren 42-43; "Sterilization of the Unfit", *Canada Law Journal*, vol. 48, no. 7, 1 April 1912, 207-208.

³⁸⁰ "Sterilization of the Unfit" 207.

³⁸¹ "Sterilization of the Unfit" 208.

³⁸² AO, RG 29-58.

and then returned to Hamilton.³⁸³ She inquired about her daughter at the Home for the Friendless where she had given birth, and was informed that her daughter had died at three months.³⁸⁴

By the fall of 1918, Daisy was arrested in Hamilton and charged with vagrancy.³⁸⁵ Doctors English and McGillivray examined her in the Hamilton jail and she was eventually admitted via warrant to the Hospital for the Insane, Hamilton.³⁸⁶ The doctors noted that Daisy was “unkempt and very untidy” and did not want to respond to any questions. Dr. English claimed she was “intemperate and immoral, and in fact a moral imbecile.” She was considered a danger to others because she was “a nuisance and may distribute venereal disease” although there was no indication that she had venereal disease or had been immoral. The doctors commented that her memory was unimpaired. Daisy was diagnosed as feeble-minded (imbecile), with possible dementia praecox.³⁸⁷

In August the following year, Daisy escaped while walking from the ward to the laundry. She was found a few hours later in the home of one of her friends. “A nurse was sent for her and she resisted very strenuously and she did not want to return, but finally did so none the worse for her outing.”³⁸⁸ A month later she tried to escape again but was unsuccessful. Daisy requested of the doctors to let her go home. Instead, she was transferred to Cobourg within days.

³⁸³ AO, RG 29-58.

³⁸⁴ While this was sometimes a ruse used by orphanages to ensure that biological mothers did not search for their children who were adopted, in this case, it was true that Daisy’s daughter died at three months from severe malnutrition as indicated in her death record.

³⁸⁵ AO, RG 29-58. I did not have access to the Hamilton jail records therefore I cannot confirm that Daisy was actually charged with vagrancy.

³⁸⁶ AO, RG 29-58. This was likely in accordance with *The Hospitals for the Insane Act*, S.O. 1913, c. 83, s. 23.

³⁸⁷ AO, RG 29-58.

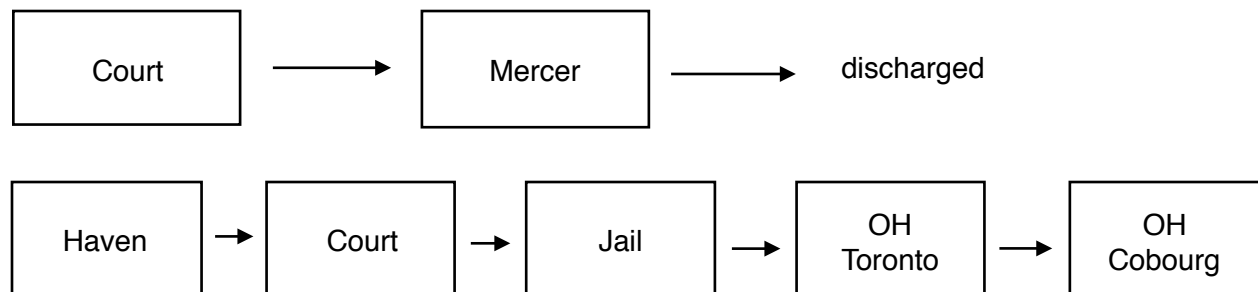
³⁸⁸ AO, RG 29-58.

By July 1922, there was concern for Daisy's health. "There does not seem to be anything organically wrong but it looks very much like a general break up. She has been in bed more or less for some little time."³⁸⁹ Within six months she had deteriorated and had no interest in people or her surroundings. In March 1923 it was noted that she was rapidly succumbing to tuberculosis. Daisy Duncan died of pulmonary tuberculosis the following month at the age of thirty-eight. As the hospital could not find any friends, Daisy received an institutional burial.

Daisy Duncan was first institutionalized and sterilized in Hamilton on the basis of having given birth to an illegitimate child. Punishment for a conviction of vagrancy under the *Criminal Code* would have been imprisonment for no more than six months.³⁹⁰ Instead, she was institutionalized for approximately four and one-half years until her death.

1919-1925

Edith Evans



Edith Evans is an excellent example of a woman who was incarcerated and institutionalized due to her behaviour rather than insanity or feeble-mindedness. She was born in

³⁸⁹ AO, RG 29-58.

³⁹⁰ *Criminal Code*, R.S.C. 1906, c. 146, s. 239.

England in 1897, one of six children.³⁹¹ According to her patient file, her parents died when she was young, and as a consequence, she was placed in an industrial home for training in domestic service.³⁹² In June 1912 at age fourteen, Edith and one of her sisters emigrated to Canada as part of the British Home Child scheme.³⁹³ Philanthropic organizations in England sent children, including those who were orphaned, abandoned, or destitute, to rural Canada in the hope of a better life. Most children did not receive an education in Canada, but rather were sources of cheap labour on farms and as domestic workers.³⁹⁴ Edith and her sister arrived in Peterborough, Ontario, from where they were placed out to work.³⁹⁵

Edith was sent to Hamilton in domestic service.³⁹⁶ When the work proved to be too strenuous she was returned to Peterborough. Just after Christmas in 1915, Edith (using an assumed named) was arrested in Belleville. Her Warrant of Commitment stated:

[. . .] did unlawfully was a vagrant being a common prostitute wandering in the public streets and did not give a satisfactory account of herself, and pleading guilty to the said offence was found guilty thereof and sentenced to serve a term of not less than six months in the Andrew Mercer Ontario Reformatory for females and for an indeterminate period thereafter of not more than two years less one day.³⁹⁷

³⁹¹ National Archives of the UK, Census Returns of England and Wales, 1901; AO, RG 29-58.

³⁹² National Archives of the UK, Census Returns of England and Wales, 1911. I can confirm her mother's death in 1904 noted in her death record, but have been unable to uncover information about her father.

³⁹³ LAC, RG 76-C.

³⁹⁴ For an overview of information on children emigrating to Canada, see Library and Archives Canada "Home Children, 1869-1932", <http://www.bac-lac.gc.ca/eng/discover/immigration/immigration-records/home-children-1869-1930/pages/home-children.aspx> .

³⁹⁵ LAC, RG 76-C; AO, RG 29-58.

³⁹⁶ AO, RG 29-58.

³⁹⁷ AO, RG 20-50, Administrative Records of the Vanier Centre for Women.

Because the magistrate did not include references to any Acts in his warrant, my inference is that Edith was convicted of vagrancy under section 238(i) of the *Criminal Code* which read, “**being a common prostitute** or nightwalker, **wanders in** the fields, **public streets** or highways, lanes or places of public meeting or gathering of people, and **does not give a satisfactory account of herself**.”³⁹⁸ (Emphasis mine.) The punishment described in section 239 for this summary conviction offence was imprisonment for not more than six months and/or a fine of not more than fifty dollars. Edith was sentenced to the Mercer.

The *Prisons and Reformatories Act* provided for the admission of a woman into the Mercer if she was “convicted of an offence against the laws of Canada”.³⁹⁹ The *Andrew Mercer Reformatory Act* only allowed for the admission of a woman into the Mercer due to a provincial offence.⁴⁰⁰ Although one could argue that Edith was committed under *The Female Refuges Act*, I suggest that the disposition in this case was consistent with the *Prisons and Reformatories Act*. The aforementioned Act explicitly stated at section 3 that “[w]hensoever any female is convicted under section two hundred and thirty-nine of the *Criminal Code*, . . . she may be sentenced to the Reformatory for an indefinite term less than two years.”⁴⁰¹ The *Female Refuges Act* in 1914 allowed for detention “for an indefinite period not exceeding five years.”⁴⁰²

The magistrate, in the Warrant of Commitment, did not seem clear on the nuances of sentencing practices. Dombek and Tranmer’s article “The Indeterminate Sentence Under the

³⁹⁸ *Criminal Code*, R.S.C. 1906, c. 146, s. 238(i).

³⁹⁹ *Prisons and Reformatories Act*, S.C. 1913, c. 39, s. 2.

⁴⁰⁰ *The Andrew Mercer Reformatory Act*, R.S.O. 1914, c. 288, s. 8.

⁴⁰¹ *Prisons and Reformatories Act*, S.C. 1913, c. 39, s. 3.

⁴⁰² *The Female Refuges Act*, R.S.O. 1914, c. 289, s. 3(1).

Prisons and Reformatories Act,” was very useful in understanding this sentencing confusion.⁴⁰³

Section 44 of the *Prisons and Reformatories Act* of 1913 stated that anyone could be imprisoned in the Ontario Reformatory (previously known as the Central Prison) to “a term of not less than three months and for an indeterminate period thereafter of not more than two years less one day[.]” However, the Ontario Reformatory only incarcerated men. Therefore, the terms of imprisonment were different for men and women. Under the law, as noted above, Edith could only be sentenced “for an indefinite term less than two years.”

After being detained one month in the Belleville jail, Edith was transferred to the Mercer arriving in February 1916. By 1917, the inmate file indicated that Edith was becoming rebellious. In January she had been confined to an isolation cell because she attempted to “smuggle a letter outside” and she was accused of stealing a piece of jewelry from the superintendent’s apartment. While in isolation she attempted suicide by strangulation. The superintendent wrote to the Inspector of Prisons, “This girl has threatened and attempted this before. My own impression is that while there is the appearance of attempt, she is not actually serious in the attempt to take her own life, but merely working on the sympathy of those around her.”⁴⁰⁴

In August, the superintendent of the Mercer, Emma O’Sullivan wrote to the Assistant Inspector of Prisons, Dr. Helen MacMurchy, and described an incident regarding Edith.

I beg to report that finding [Edith Evans] tried to communicate with the inmates in punishment and believing she was trying to get special food to them I had her locked in her own room in B. Corridor this morning. The Doctor visited her on his rounds and reports her as follows, “Getting her corset-strings to do herself some violence”.

⁴⁰³ Dombek and Tranmer 335.

⁴⁰⁴ AO, RG 20-50.

Whenever this girl is sent to punishment she makes these efforts to injure herself. She ordinarily seems intelligent but is an abnormal liar. She always gives a great deal of trouble.⁴⁰⁵

The subject of Edith's parole was discussed in October.⁴⁰⁶ She had been incarcerated for over twenty-one months and had only a short period left in her sentence. It was suggested that it was preferable to release her early but keep her under the supervision of Mercer's field officer rather than serve out her sentence with no supervision afterwards. After twenty-three months of incarceration, Edith was released on a ticket of leave.⁴⁰⁷

She had begun her parole working as a domestic in a Toronto home receiving \$15.00 per month.⁴⁰⁸ She left to work at Eaton's department store for \$10 per week, however, she had to quit her job after a few months because she became pregnant. Mrs. Scott, Mercer's field officer, had maintained supervision of Edith, even after her ticket of leave expired.⁴⁰⁹ Mrs. Scott contacted the Social Service department of the Toronto General Hospital and reported that Edith was living the life of a prostitute, was pregnant, and an investigation should commence. When located, Edith had been turned out by her landlady because she had no means of support. Rather than be

⁴⁰⁵ AO, RG 20-50.

⁴⁰⁶ AO, RG 20-50.

⁴⁰⁷ A ticket of leave was a licence under *An Act to Provide for the Conditional Liberation of Convicts*, R.S.C. 1906, c. 150, that allowed for parole of an inmate for the remaining portion of his imprisonment, albeit with conditions.

⁴⁰⁸ AO, RG 29-58.

⁴⁰⁹ Supervision of inmates after their discharge date was codified in 1919.

arrested for vagrancy again, she chose to be admitted to the Salvation Army Haven (hereinafter referred to as the “Haven”).⁴¹⁰

Edith entered the Haven in November 1918. She was examined and found to have both gonorrhoea and syphilis. Her child was born shortly thereafter and was admitted to the “Hospital for Incurable Children with infantile paralysis, and possible hereditary syphilis.”⁴¹¹ She stayed at the Haven for over a year, then ran away for a week before returning. During that week she had become pregnant and later gave birth to a still born child due to syphilis.

While living at the Haven she had gained the reputation of being an instigator of trouble. “She feigned penitence and conversion” but “all attempts to reclaim her have been futile.”⁴¹² Neighbours complained because Edith would stand in the windows nude, attracting attention. If reprimanded, she would weep and threaten suicide. One day at a meal she spoke under her breath about the quality of the food but the Matron heard her, which resulted in Edith being locked in the bathroom. Police were summoned and she was arrested on a charge of incorrigibility.⁴¹³

According to the Toronto jail register of October 1922, Edith was convicted with the summary conviction offence of vagrancy, not incorrigibility, and Magistrate Patterson detained her in jail. A conviction for vagrancy under the *Criminal Code* allowed time for doctors to examine Edith while in jail, to determine if she was insane as required under *The Hospitals for*

⁴¹⁰ The Salvation Army Haven was a charitable religious shelter which admitted unwed mothers, prostitutes, inebriates, and feeble-minded girls. For an in depth analysis of the Haven, see John R. Graham’s article, “The Haven, 1878-1930: a Toronto Charity’s Transition From a Religious to a Professional Ethos,” *Social History*, vol. 15, no. 50, November 1992, 283-306.

⁴¹¹ AO, RG 29-58.

⁴¹² AO, RG 29-58.

⁴¹³ AO, RG 29-58. This information was according to a letter from the Social Service Department of the Toronto General Hospital.

the Insane Act.⁴¹⁴ The doctors who examined Edith claimed she had “delusions of persecution” and “looks defective”.⁴¹⁵ She was committed as a lunatic to the Ontario Hospital, Toronto.⁴¹⁶

Upon admission, Edith was examined by one of the psychiatrists who wrote,

As far as I can find out, this girl is not hallucinated or delusioned, and she is well oriented. She answers questions readily and her narrative is coherent in every particular. (. . .) When I first saw this girl, she could not tell me who was Mayor of Toronto or the President of the United States, but the next day when I saw her, she had this information readily at hand. She said that the first day I asked her these questions she was nervous and could not think; at any rate she had enough ambition and wit to inform herself in the meantime. (. . .) She has not the appearance or the actions of a vicious or degenerate girl, and I do not think she is very weak minded.⁴¹⁷

The following month she was examined by another psychiatrist in the Ontario Hospital, Toronto who made the diagnosis that “there is very little the matter with this girl.” After being institutionalized for two and one-half months she was noted as being “pleasant and quiet, and one might almost say that her conduct has been in most ways, exemplary.” But the doctors had a concern regarding her morality, and that she considered her sexual improprieties as only slight transgressions. “It is difficult to know what to do with a girl like this.”⁴¹⁸ They decided to transfer her to Cobourg along with a dozen or so other patients in February 1923.⁴¹⁹

Two months after her transfer, the Cobourg doctors noted that Edith was quiet, in good physical health, and easily managed. “On taking into consideration this patient’s previous history

⁴¹⁴ *Criminal Code*, R.S.C. 1906, c. 146, ss. 238, 239; *The Hospitals for the Insane Act*, R.S.O. 1914, c. 295, s. 8.

⁴¹⁵ AO, RG 29-58.

⁴¹⁶ AO, RG 20-100.

⁴¹⁷ AO, RG 29-58.

⁴¹⁸ AO, RG 29-58.

⁴¹⁹ AO, RG 29-58, Edith and other Cobourg patient files.

and the general appearance of the patient, there is little or no doubt but that this is a case of High Grade Imbecility.”⁴²⁰ Two days after this notation, Edith eloped from the institution with the pre-arranged assistance of one of the nurses. The nurse had asked “for an order to take the patient out, she was refused and took the patient out on her own responsibility[.]” Edith was taken to downtown Cobourg where her friend was waiting in a vehicle. The night nurse noticed Edith was missing from the ward. The police and the railway stations were notified, but Edith had escaped and had left no trace. The nurse who had assisted in the escape “was relieved from duty, turned in her keys and uniforms, and is no longer a member of the nursing staff.”⁴²¹

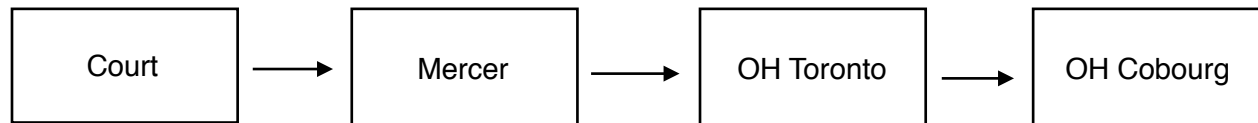
After being absent for over thirty days, Edith was written off as an eloper and Cobourg received a Warrant of Discharge for her from the Office of the Inspector of Prisons and Public Charities, Ontario. I have been unable to discover any further movements of Edith.

This case was illustrative of medical professionals in institutions who struggled with what to do with female patients who were not insane and their conduct in the institution was praiseworthy, but their sexual behaviour was ‘dangerous’ to society. Edith was incarcerated for vagrancy at the Mercer for almost two years, yet punishment under the *Criminal Code* was imprisonment for no more than six months. Due to the fact that she became pregnant and was surveilled by a Mercer official, Edith was admitted into a shelter, which led her to court and institutionalization, a process of four and one-half years. Had she not eloped, it is unknown how long she would have been institutionalized.

⁴²⁰ AO, RG 29-58.

⁴²¹ AO, RG 29-58.

Florence Foster



Florence Foster was another woman who was charged with bigamy, but unlike Alice Anderson who was committed as a lunatic in 1910, Florence was sentenced to the Mercer. Her file was instructive because Mercer's superintendent, Emma O'Sullivan, and Dr. Edna Guest, Mercer's physician, were not clear about the directions stipulated in *The Hospitals for the Insane Act* for transferring a woman from a reformatory to a Hospital for the Insane. In addition, Florence's file contained information that was found to be untrue and time lines that were confusing when I analyzed the claims.

According to Florence's file, she claimed to have been born in Detroit.⁴²² In reality, she was born in northern Ontario in 1900.⁴²³ By 1911, Florence, her parents and siblings were living in Fort William, now Thunder Bay, Ontario.⁴²⁴ She married her first husband, George Foster, in Fort William in 1919. Her file stated "[h]e was good and kind to her and they did not seem to have any more altercations than are usually incident in a matrimonial venture."⁴²⁵ Within a couple of years, Florence moved to Toronto without her husband where she worked at the New Method Laundry.⁴²⁶ Information I discovered that was not in Florence's file, was that she married

⁴²² AO, RG 29-58.

⁴²³ LAC, RG 31-C-1, 1901.

⁴²⁴ LAC, RG 31-C-1, 1911.

⁴²⁵ AO, RG 29-58.

⁴²⁶ AO, RG 29-58.

a Michael Wright in Toronto in 1921, and she claimed in the marriage registration that she was a widow and was born in Detroit, Michigan.⁴²⁷

Florence's patient file stated that she went to visit her aunt in Port McNicoll, a town north of Toronto on Georgian Bay.⁴²⁸ It was here where she married Wallace Smith (incorrectly referred to as Norman Smythe in her patient file) in October 1921, less than three months after her marriage to Michael Wright in Toronto.⁴²⁹ The marriage registration noted Florence's last name as "Foster" but she was defined as a spinster, born in Detroit, Michigan. Her parent's names were fictionalized. Shortly thereafter, according to her patient file, Wallace's family had come across a letter addressed to Florence from her first husband, George Foster, who was still alive. She was taken to court and convicted of bigamy. In January 1922, she was sentenced to the Mercer for not less than three months and an indeterminate period of not more than one year.⁴³⁰ As this was a criminal charge, I expect she was admitted to the Mercer pursuant to the *Prisons and Reformatories Act*.⁴³¹

Emma O'Sullivan, the Mercer superintendent, had written a letter to the Inspector of Prisons in October 1922,

When in charge of the Bailiff coming here she manifested signs of a disordered mind, and on her entrance examination at the Institution seemed unaware of the enormity of what she had done, and was classed by me as mentally deficient.

⁴²⁷ AO, MS 932.

⁴²⁸ AO, RG 29-58.

⁴²⁹ AO, MS 932.

⁴³⁰ AO, RG 20-50. Bigamy was an indictable offence under the *Criminal Code* and upon conviction one was liable to seven years' imprisonment.

⁴³¹ *Prisons and Reformatories Act*, S.C. 1913, c. 39, s. 2.

As the term of detention here approaches the end, it is customary to send to the Psychiatric Clinic at the Toronto General Hospital those who have shown such conditions as the inmate in question. She was taken to this Clinic last week, and was pronounced by Dr. Clarke mentally deficient and Hebephrenic Dementia Praecox. (. . .) Dr. Clarke's report also stated she should be under the supervision of a very reliable person when given her liberty.⁴³²

Emma O'Sullivan was not a medical doctor and yet had classified Florence as mentally deficient. In addition, she specifically stated that when the expiry of the detention term approached, it was commonplace to send the inmate to the Psychiatric Clinic for examination. This claim is supported by Jennifer Stephen's article "The 'Incorrigible,' the 'Bad,' and the 'Immoral': Toronto's 'Factory Girls' and the Work of the Toronto Psychiatric Clinic" in which Stephen notes that various social agencies for women "all opened their doors to facilitate the identification of 'mental defectives' in their midst."⁴³³

Within a week of Florence's examination at the Psychiatric Clinic, she suffered an acute episode which was described as "violently insane" by O'Sullivan. Florence was in bed, complained of a headache and became so "violent and destructive" that it was necessary to restrain her and remove her to one of the Mercer hospital rooms because of the disturbance. Within a few hours, Dr. Edna Guest, the Mercer's doctor, attended to Florence and determined that she be sent to the Hospital for the Insane, Toronto.⁴³⁴ Florence was transferred by ambulance to the aforementioned hospital as an emergency case along with a physician's certificate

⁴³² AO, RG 20-50.

⁴³³ Stephen 419.

⁴³⁴ AO, RG 20-50.

completed by Dr. Guest that said in part “[b]efore this acute spell the inmate talked quite unaffected of her past experiences as a bigamist as a vagrant and now has hallucinations.”⁴³⁵

Dr. Harvey Clare, the superintendent of the Hospital for the Insane, Toronto, contacted O’Sullivan the following morning “protesting against the illegal transfer without sufficient papers and without permission of the Superintendent of the Hospital of this patient.”⁴³⁶

O’Sullivan reached out to Mr. Dunlop, the Inspector of Prisons. However, Dunlop supported Dr. Clare’s position while reminding O’Sullivan that,

[a]ll admissions to the Ontario Hospitals are regulated by the Statutes in that behalf and it is a common occurrence for us to refuse to accept patients presented unless the necessary certificates and family history is provided. (. . .) Dr. Clare was quite right to object to an illegal attempt to load on the Hospital this patient. (. . .) It is not the duty of the Hospital to provide these certificates or the history. That duty devolves on those who desire the admission of the patient.⁴³⁷

Dunlop also tried to explain legal liability and its broader scope to O’Sullivan.

Apart from the psychiatric features, there is the outstanding fact that once a person is stamped or designated as insane, that person becomes a ward of the Province and loses his or her citizenship. We must guard the Department and the Hospitals against Writs of Habeas Corpus for illegal detention of the inmates, and it is illegal to admit any person without the necessary certificates.⁴³⁸

A few days after Florence was admitted to the hospital, Dr. Vrooman of the Hospital for the Insane, Toronto, wrote in the clinical record,

⁴³⁵ AO, RG 29-58. There is no corroboration that Florence was ever a vagrant as defined in the *Criminal Code*.

⁴³⁶ AO, RG 20-50.

⁴³⁷ AO, RG 20-50.

⁴³⁸ AO, RG 20-50.

This girl, for some reason I do not understand, was sent here about midnight in an ambulance, as a very urgent case. She has given no trouble since the day of admission, and has stayed, for the most part, quietly in bed. She reads magazines, smiles and answers questions pleasantly when interrogated. She says she was sent here from the Mercer because she supposed that they thought she was crazy, but she says you do not have to do very much before some people think that. (. . .) She writes a very good hand and composes a good letter. (. . .) She is not in very good touch with current events and is no doubt of somewhat limited intelligence. At the same time, she is fairly neat and clean in her personal habits, and I cannot find anyone amongst the nurses here who will regard her as insane.⁴³⁹

Dunlop, the Inspector, wrote to O'Sullivan a month later that Florence showed no signs of insanity and that the proper medical certificates had never been forwarded to the hospital, therefore Dr. Clare wished to have Florence returned to the Mercer. O'Sullivan responded with a scathing letter that cast blame squarely on Dr. Clare.⁴⁴⁰ Florence was not returned to the Mercer. Instead, on February 2, 1923, Florence was transferred as part of a fairly large group of women (more than ten), from the Hospital for the Insane, Toronto, to Cobourg.⁴⁴¹ In Cobourg, she was diagnosed as a high grade imbecile who was in good physical health and easily managed. Two of Florence's brothers and a sister came to Cobourg in May 1923 and asked the superintendent if they could take her home on probation, which was granted. At the end of August, Florence was discharged from Cobourg as "improved".⁴⁴²

Florence had been convicted and sentenced for bigamy, an offence that could have imprisoned her for seven years, but she was instead sentenced for no less than three months and no more than one year at the Mercer. She spent sixteen months incarcerated and institutionalized,

⁴³⁹ AO, RG 29-58.

⁴⁴⁰ AO, RG 20-50.

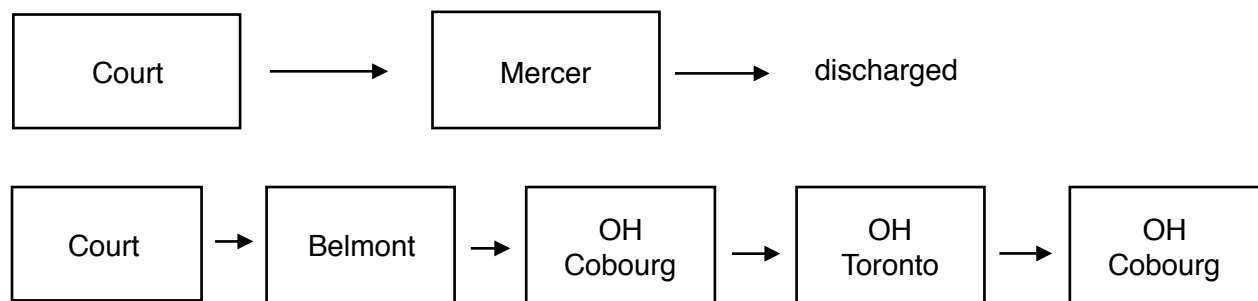
⁴⁴¹ AO, RG 29-58, Florence and other Cobourg patient files.

⁴⁴² AO, RG 29-58.

and three more months on probation. Although detained for far less than a possible seven year sentence, she still did not attain freedom for nineteen months, at least seven months longer than her initial sentence by the magistrate.

1926 - 1935

Gertrude Gagnon



Gertrude Gagnon’s family history was a strong example of eugenicists’ views on criminality, feeble-mindedness, and mental illness caused through heredity and environment. Throughout Gertrude’s files were references to her father, mother, and sisters all incarcerated at one time or another in correctional facilities. In order to comprehend the relationships, I had to construct her family tree, much like the medical professionals in Cobourg did for many of their patients.⁴⁴³

By way of background, family tree-style charts had long been utilized by scientists with a eugenic undertone to explain the “hereditary taint”⁴⁴⁴ of pauperism, criminality, immorality,

⁴⁴³ It is not unusual to find a patient’s family tree in their case file, created by Cobourg’s staff. I have chosen not to include Gertrude’s family tree as it is tangential to this thesis.

⁴⁴⁴ Henry Herbert Goddard, *The Kallikak Family: A Study in the Heredity of Feeble-Mindedness*, The Macmillan Company, 1922. “Hereditary taint” was a phrase used by Goddard.

illegitimacy, alcoholism, and mental and physical disabilities, and to legitimize reasons for segregation and sterilization.⁴⁴⁵ One of the most famous of these family trees was that of the Jukes family, compiled and analyzed by Robert Dugdale in the 1870s.⁴⁴⁶ It must be mentioned that Dugdale also placed a strong emphasis on the environment of the individual and promoted “tentative generalizations” in his study.⁴⁴⁷

Henry Herbert Goddard followed up with his own analysis of the multi-generational Kallikak Family in 1912, which focussed mainly on heredity related to feeble-mindedness. Goddard, who was a fierce proponent for eugenics and asserted that sterilization was necessary in conjunction with segregation, connected intellectual disabilities with social and behavioural issues, but he differed from Dugdale in that he believed environment was not a strong factor for analysis. “[I]t would seem to be rather dangerous to base any very positive hope on environment in the light of these charts, taken as a whole. There are too many other possible explanations of the anomaly.”⁴⁴⁸ Goddard had a rather unequal view of the Kallikak family. The “good” side was purported to be comprised of upstanding citizens including “doctors, lawyers, judges, and educators” with relatively no blemishes.⁴⁴⁹ But I argue that individuals in positions of authority, especially a century ago long before the advent of social media, had the ability through either money, power, or professional courtesy, to keep their vices hidden. Their public persona may

⁴⁴⁵ I must clarify the term “eugenics.” Negative eugenics was the sterilization and/or segregation of individuals who were considered undesirable by society’s standards. Positive eugenics was the promotion of individuals to reproduce, but only those who had desirable traits as defined by society at a given time.

⁴⁴⁶ Robert L. Dugdale, *The Jukes: A Study in Crime, Pauperism, Disease, and Heredity*, G.P. Putnam’s Sons, 1910.

⁴⁴⁷ Dugdale 65.

⁴⁴⁸ Goddard 61.

⁴⁴⁹ Goddard 30.

have been respectable, but their private lives may have mirrored that of the “bad” side of the family.

Dr. Lionel Sharples Penrose was not a supporter of Goddard’s opinion.⁴⁵⁰ Penrose was a eugenicist who was a mathematician, psychiatrist and medical geneticist interested in the genetics of “familial mental illness,”⁴⁵¹ however, he believed that eugenics as a whole was more philosophy rather than “practical science.”⁴⁵² Dr. Penrose was a British subject living in Canada where in the early 1940s he surveyed patients housed mainly in the Ontario Hospital, London, and in the Ontario Hospital, Toronto. The study was meant to illuminate the role of genetics in mental illness, including intellectual disabilities and psychoses. I discovered in his papers what looked like the study’s proposal and research methodology.⁴⁵³

The investigation does not aim at establishing large pedigrees and is best confined to the patient’s close relatives, e.g., brothers, sisters, parents, children, uncles, aunt, nephews and nieces. About one patient in every 5 has a close relative admitted to a mental hospital. Special forms are provided for filling in the essential facts, when that has been obtained.

The abstract revealed that “over 1000 closely related pairs of mentally ill patients” were analyzed.⁴⁵⁴ A draft of “The Genetical Causation of the Psychoses” acknowledged that there

⁴⁵⁰ Lionel Penrose, *The Influence of Heredity on Disease*, H.K. Lewis, 1934, 74.

⁴⁵¹ AO, Fonds F4323, Lionel Sharples Penrose Fonds.

⁴⁵² Penrose 76. The section on “The Future of Human Genetics” and “Medicine and Eugenics” focussed on diseases such as Huntington’s chorea and pseudohypertrophic muscular dystrophy in which he believed in sterilization. Philosophically, he also pondered the future, cautioning “we cannot tell for certain whether eliminating one group of factors which, in the present environment, may appear disadvantageous may not at the same time eliminate other factors which, in the future, will be of vital importance.”

⁴⁵³ AO, F4323.

⁴⁵⁴ AO, F4323, Abstract for paper to be read at American Psychiatric Association meeting in May 1944 entitled “Age of Onset and Sex in Familial Mental Illness.”

were a “great variety of causes” of mental illness and psychoses.⁴⁵⁵ While he recognized that genetics was a contributing factor, he also affirmed that “The more common types are only partially due to heredity and a few types seem to be entirely determined by adverse environment.”

In the first half of the twentieth century, scientists, members of the medical profession, social agencies, and the legal system, placed great emphasis on a family’s medical history, their behaviours, and their environment including geographic location and income, of which Gertrude's files are an excellent example.

Gertrude was born in Sudbury, Ontario in 1905, to Alfred Gagnon and Alfred’s second wife, Susan Cooper.⁴⁵⁶ Alfred’s first wife was Susan’s older sister, Laura, who died within six years of marriage, leaving behind three children.⁴⁵⁷ Alfred and Susan married shortly thereafter in 1903 and went on to have nine children.⁴⁵⁸ The family tree was a bit more intertwined than just Alfred marrying sisters, because Alfred’s mother and Susan’s mother were sisters, which meant that Alfred was a first cousin to both Laura and Susan.⁴⁵⁹

In the 1921 census, the entire family (with the exception of Gertrude) was living together under one roof. At the age of 15, Gertrude was working as a domestic for an elderly couple about

⁴⁵⁵ AO, F4323, “The Genetical Causation of the Psychoses,” draft. I was unable to find a final copy of this paper, only the draft form.

⁴⁵⁶ AO, MS 929.

⁴⁵⁷ AO, MS 929; LAC, RG 31-C-1, 1901, 1911.

⁴⁵⁸ AO, MS 929; LAC, RG 31-C-1, 1911; LAC, RG 31, 1921.

⁴⁵⁹ AO, MS 929; AO, MS 932; AO, MS 935; LAC, RG 31-C-1, 1881, 1891, 1901. According to *The Marriage Act*, R.S.O. 1927, c. 181, s. 23, Form 5, the bar to marriage due to consanguinity list did not include first cousins.

fifty kilometres away from her family.⁴⁶⁰ Life for the members of the Gagnon family came to a head in 1925. Gertrude and one of her younger sisters, Vera, were domestics for a family in Sudbury when, in January, they were convicted of theft from their employer under section 386 of the *Criminal Code*.⁴⁶¹ This was “an indictable offence and liable to seven years imprisonment[.]” They were sentenced in a Sudbury court to be detained at the Mercer for not less than one year and not more than two years less one day. Concurrently, Gertrude’s father, a lumberjack by trade, was in court and sentenced to two terms of three years each in the penitentiary for incest with both Gertrude and Vera.⁴⁶² Their mother had reportedly abandoned the family (it was not clear if this happened before or after Alfred’s sentencing) and her location was unknown.⁴⁶³ It is also unknown what the consequences were for all the other children, although I did discover two daughters who were committed to the Alexandra Industrial School.⁴⁶⁴

Gertrude was refused parole in July 1926, but was successful in November after serving almost twenty-two months.⁴⁶⁵ She remained in Toronto and gained employment as a domestic.⁴⁶⁶

⁴⁶⁰ LAC, RG 31, 1921.

⁴⁶¹ *Criminal Code*, R.S. 1906, c. 146, s. 386; AO, RG 20-50. According to Gertrude's Warrant of Commitment, she "unlawfully did steal 2 bedspreads, 3 sheets, 1 linen table cloth, 1 pair ladies drawers, 1 cretonne table cover, 1 ladies underskirt, 1 shirtwaist, 3 aprons, 3 petticoats, 1 baby's sleeper, 1 dress ladies[.]"

⁴⁶² AO, RG 20-50; AO, RG 4-32.

⁴⁶³ AO, RG 20-50.

⁴⁶⁴ AO, RG 60-3. In 1927, Rose, a younger sister, was arrested for vagrancy but the charge was dismissed. In 1929, Rose was arrested for incorrigibility by Magistrate Patterson and sentenced to the Belmont for two years less a day indeterminate under *The Female Refugees Act*. Soon thereafter, Rose was transferred to the Mercer. Rose was diagnosed a high grade mental defective but was allowed to be discharged to her mother in Sudbury. Gertrude’s sister Vera was charged with theft in 1928. Shortly after Vera’s court date in 1928, their mother, using her maiden name, was also charged with theft by Magistrate Patterson and was sentenced to the Mercer for an indeterminate sentence not to exceed twelve months less one day, according to their mother’s Mercer file.

⁴⁶⁵ AO, RG 20-50.

⁴⁶⁶ AO, RG 29-58.

When she became pregnant while working as a domestic, she asked the Salvation Army to help her find another job. They found her employment at a “fish and chip shop” and within two weeks her employer accused her of stealing money, which she denied.⁴⁶⁷ Gertrude was arrested and appeared in the Toronto Women’s Police Court. According to her Cobourg file, Magistrate Patterson convicted Gertrude of theft under the Criminal Code and committed her to the Belmont for two years less a day.⁴⁶⁸ It was unclear why Gertrude was committed to Belmont instead of the Mercer. I have been unable to find Gertrude in the Toronto jail register, nor have I discovered a Warrant of Commitment, so I cannot confirm her conviction was actually for theft. In any case, Gertrude was sent to Belmont either under *The Female Refuges Act* or the *Prisons and Reformatories Act*.⁴⁶⁹ The *Prisons and Reformatories Act* specifically referenced federal offences of which theft was included. *The Female Refuges Act* by 1913 was silent as to offences against federal or provincial laws. Therefore, unless one has documentation of the specific offence for which Gertrude was convicted and under which section of the *Criminal Code* Gertrude was sentenced, and the disposition, one cannot claim with one hundred percent accuracy under which Act she was sentenced.⁴⁷⁰

After almost two years at the Belmont, (during which time Gertrude gave birth to a girl who died three months later due to meningitis),⁴⁷¹ Laura Lillian Kennedy, the superintendent,

⁴⁶⁷ AO, RG 29-58.

⁴⁶⁸ I have been unable to find any Toronto jail records, therefore she may have been transferred directly to the Belmont without spending any time in jail.

⁴⁶⁹ *The Female Refuges Act*, R.S.O. 1927, c. 347, s. 2(1); *Prisons and Reformatories Act*, R.S.C. 1927, c. 163, s. 73.

⁴⁷⁰ I bring a critical eye to the information found in patient files regarding warrants, arrests, and convictions, as they are not primary documents and it is not unusual to find conflicting information with the jail registers. Edith Evans is an excellent example.

⁴⁷¹ AO, RG 29-58; AO, MS 935.

took advantage of section 9(4) of *The Female Refuges Act* that allowed for the inspector, upon recommendation of the board, to “direct the removal of any feeble-minded inmate” to Ontario Hospital, Orillia.⁴⁷² According to Gertrude’s Cobourg file, she was admitted to Cobourg from Belmont as a certificate case, not a warrant. I suggest she was admitted to Cobourg under *The Hospitals for the Insane Act*.⁴⁷³ This is supported by evidence that two medical certificates were completed along with a financial and estate history form, and a family history form, which included statements such as “whole family are mental defectives and father and mother and two sisters have court records” and at times Gertrude is “extremely stubborn” but “works well under supervision”.⁴⁷⁴ Gertrude was transferred and admitted to Cobourg in May 1929.⁴⁷⁵

In Cobourg, Gertrude was diagnosed as having mental deficiency without psychoses, a middle grade moron. She was put to work in the laundry and the dining room for the next four years. In September 1933 the doctors diagnosed Gertrude with as having pulmonary tuberculosis, moderately advanced. She was transferred to Ontario Hospital, Mimico’s tuberculosis unit for care and treatment. Gertrude endured insertion of a chest tube to help clear her lungs approximately every ten days. After a year she became “insolent” and refused the regimen, “said it would not do her any good any way.” She eventually relented and continued for a further year and a half. Gertrude was returned to Cobourg in December 1935.⁴⁷⁶

⁴⁷² *The Female Refuges Act*, R.S.O. 1927, c. 347, s. 9(4). *The Prisons and Public Charities Inspection Act*, R.S.O. 1927, c. 361, s. 19(1) gave the inspector authority to transfer “any inmate from any said institution to any other said institution.” This allowed Gertrude’s transfer to Cobourg instead of the Ontario Hospital, Orillia as the latter was severely overcrowded.

⁴⁷³ *The Hospitals for the Insane Act*, R.S.O. 1927, c. 353, s. 6.

⁴⁷⁴ AO, RG 29-58.

⁴⁷⁵ AO, RG 29-58.

⁴⁷⁶ AO, RG 29-58.

In February, Gertrude was reassessed and her past diagnosis of mental deficiency without psychosis, a moron, was confirmed. It was noted that “there has been a great improvement in this girl’s personality since she first entered the hospital.”⁴⁷⁷ Over the following year Gertrude was transferred from working in the beauty parlour, to the dining room, to working as a ward aide, and was becoming restless, refusing to work. She was demoted to waitress service.

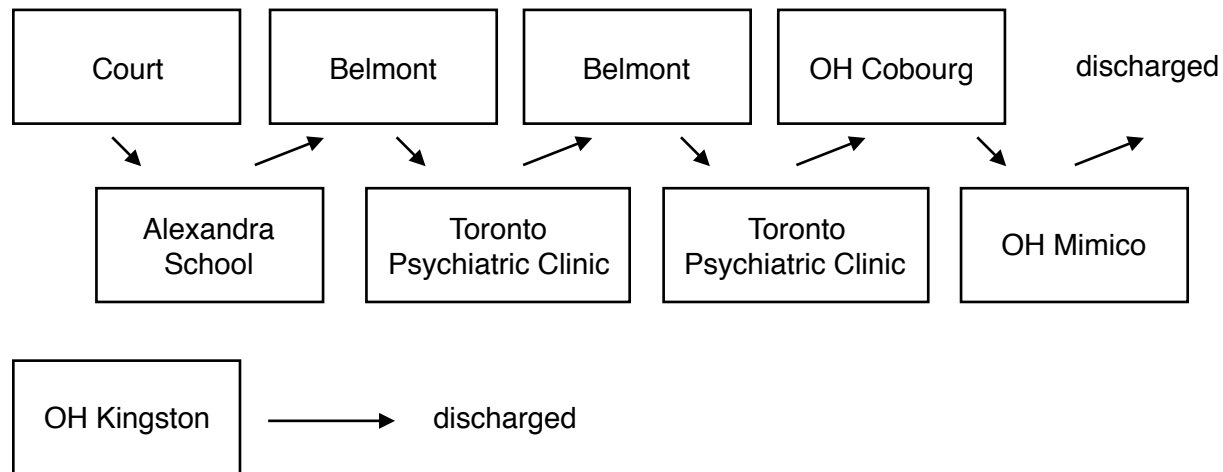
By the fall of 1937, Gertrude’s sister Rose, now married, had arranged for Gertrude to be released on probation and to live with Rose in Sudbury. Six months later, all reports from Sudbury were favourable, therefore Gertrude was formally discharged from Cobourg.⁴⁷⁸ I have been unable to track Gertrude after her discharge.

Gertrude was initially incarcerated in the Mercer for almost twenty-two months of her indeterminate sentence of two years less one day, and was paroled for two months thereafter on her charge of theft. Her second charge of theft was again for two years less a day; however, she was transferred from Belmont to Cobourg and ultimately was incarcerated/institutionalized for almost ten years, in part due to her family’s shadow, before being discharged.

⁴⁷⁷ AO, RG 29-58.

⁴⁷⁸ AO, RG 29-58.

Hilda Harrison



Hilda Harrison is an example of a girl who was committed as a young teenager due to her behaviour, and shuttled from institution to institution. She was born in 1912 in Campbellford, Ontario and experienced a difficult childhood.⁴⁷⁹ Her father, a labourer of odd jobs, deserted the family (his second) leaving behind Hilda, aged eight, her mother, and two younger siblings, one being an infant.⁴⁸⁰ Hilda, at the age of fourteen, was convicted of incorrigibility due to having kept late nights with boys.⁴⁸¹ I have found no documentation regarding her committal from Juvenile Court, but I believe she was sentenced under *The Industrial Schools Act*.⁴⁸² Hilda's industrial school file claimed she was admitted because she was "uncontrollable and immoral", and the cause of trouble was "neglect and bad company."⁴⁸³ *The Industrial Schools Act* stated

⁴⁷⁹ AO, MS 929; AO, RG 29-58.

⁴⁸⁰ AO, RG 10-293, Kingston Psychiatric Hospital Patients' Clinic Case Files; LAC, RG 31, 1921.

⁴⁸¹ AO, RG 29-58.

⁴⁸² *The Industrial Schools Act*, R.S.O. 1927, c. 329. While I could make the case that Hilda was committed under *The Children's Protection Act*, R.S.O. 1927, c. 279, *The Industrial Schools Act* seemed more likely. Hilda was not sentenced under *The Female Refuges Act*, R.S.O. 1927, c. 347, because a female had to be between the ages of fifteen and thirty-five, and Hilda was only fourteen.

⁴⁸³ AO, RG 60-3.

that “any person may bring before a judge any child” who “is a habitual truant and whose parent or teacher represents that he is unable to control the child,” or, “by reason of the neglect, drunkenness or other vices of his parents suffered to grow up without salutary parental control and education, or in circumstances exposing him to lead an idle and dissolute life[.]”⁴⁸⁴ The Act also provided the judge with the authority to send a child to an industrial school if he deemed it “expedient to deal with the child under this Act.”⁴⁸⁵

Once committed to an industrial school, there was a defined period of institutionalization, “[e]very child sent to an industrial school shall within three years from the date of the order be given over to the custody of his or her parents or be apprenticed or placed out in a foster home as the industrial school board may deem advisable.”⁴⁸⁶ *The Female Refuges Act* provided another option, the transferring of an industrial school inmate to an industrial refuge for her “unexpired portion of the term of imprisonment.”⁴⁸⁷ This was significant because if an inmate was certified as feeble-minded, she could be transferred from an industrial refuge to any Ontario Hospital, thus extending her institutionalization.⁴⁸⁸

Hilda was admitted in the summer of 1927 at the age of fourteen to the Alexandra Industrial School in Toronto, approximately 250 kilometres away from her home.⁴⁸⁹ The Alexandra Industrial School records noted Hilda was “feeble-minded, with tendency to insanity”

⁴⁸⁴ *The Industrial Schools Act*, R.S.O. 1927, c. 329, s. 9(1)(d)(e).

⁴⁸⁵ *The Industrial Schools Act*, R.S.O. 1927, c. 329, s. 9(4).

⁴⁸⁶ *The Industrial Schools Act*, R.S.O. 1927, c. 329, s. 19(1).

⁴⁸⁷ *The Female Refuges Act*, R.S.O. 1927, c. 347, s. 2(2).

⁴⁸⁸ *The Female Refuges Act*, R.S.O. 1927, c. 347, s. 9(4). *The Prisons and Public Charities Inspection Act, 1925* allowed for transfers between Belmont and any Ontario Hospital.

⁴⁸⁹ AO, RG 10-293; AO, RG 60-3.

and her cause of trouble “seems to be neglect and bad company.”⁴⁹⁰ She tried to commit suicide twice by strangulation while institutionalized in the Industrial School.⁴⁹¹ After two years she was transferred to Belmont where within one month, she attempted suicide again. Hilda was quickly transported to the Toronto Psychiatric Hospital for observation where she signed a voluntary admission form, as allowed for in *The Psychiatric Hospitals Act*.⁴⁹² She relayed that she desperately wanted to go home to Campbellford and work with her mother as a maid in the Campbellford Hotel, however, the psychiatrists believed it was preferable that she “have a period of training first and that later the question of sterilization should be considered before she return to the community.”⁴⁹³ Documents were gathered to transfer Hilda to the Ontario Hospital, Orillia pursuant to section 14(2) of *The Psychiatric Hospitals Act*:

Where in the opinion of the superintendent a patient is insane or cannot be further benefitted by observation and treatment in the psychiatric hospital, and such patient was admitted as a voluntary patient (. . .) the superintendent may cause the patient to be examined by two legally qualified medical practitioners and if such medical practitioners certify in the form numbered 1 in *The Hospitals for the Insane Act* that the patient is insane the inspector shall issue his warrant for the removal of the patient to an Ontario Hospital.⁴⁹⁴

While Hilda was waiting to be transferred to the Ontario Hospital, Orillia, the Toronto Psychiatric Hospital was informed by Laura Lillian Kennedy, the superintendent of Belmont, that Hilda was still serving a sentence for incorrigibility and “ordered her to be returned” to

⁴⁹⁰ The Alexandra Industrial School records for Hilda must have been purged because it only contained four pages.

⁴⁹¹ AO, RG 10-293.

⁴⁹² *The Psychiatric Hospitals Act*, R.S.O. 1927, c. 354, s. 9(1)(a); AO, RG 29-58.

⁴⁹³ AO, RG 10-293. Training during this time period was defined as domestic training.

⁴⁹⁴ *The Psychiatric Hospitals Act*, R.S.O. 1927, c. 354, s. 14(2).

Belmont.⁴⁹⁵ One could infer that Kennedy was more interested in the maintenance fees that accompanied Hilda to Belmont. Within a month of returning to Belmont, Hilda had two “temper tantrums” as described by the Belmont workers. She tried to escape through a third story window from a room where she was isolated from all others, was then moved to solitary confinement in the basement, and again attempted suicide by strangulation using a sheet torn into a strip. She was readmitted to the Toronto Psychiatric Hospital where she had threatened that if she were to be returned to Belmont she would attempt suicide yet again. New admission documents were drawn up in accordance with *The Hospitals for the Insane Act* as the previous papers had expired.⁴⁹⁶ In January 1930, Hilda was transferred to Cobourg with a diagnosis of mental defect with psychopathic personality. She had just turned seventeen.⁴⁹⁷

Upon admission to Cobourg, Hilda tried to assert control over her body by refusing any nourishment. The response? She was “fed with both stomach and nasal tubes for about ten days” until she finally agreed to eat.⁴⁹⁸ Within nine months Hilda had started to experience auditory and visual hallucinations. Over the next year and a half, Hilda was injected with sedatives during her frequent attacks and was placed in the continuous bath for days at a time. Continuous bath therapy was enlisted to calm a patient’s nerves.⁴⁹⁹ The attendant placed the patient in a bathtub with a regulated water temperature which could be hot or ice cold, and a canvas sheet was then

⁴⁹⁵ AO, RG 29-58.

⁴⁹⁶ *The Hospitals for the Insane Act*, R.S.O. 1927, c. 353, s. 6. I have interpreted the Acts as *The Psychiatric Hospitals Act* provides for the transfer to a Hospital for the Insane, and *The Hospitals for the Insane Act* provides for the admission into a Hospital for the Insane.

⁴⁹⁷ AO, RG 29-58.

⁴⁹⁸ AO, RG 10-293.

⁴⁹⁹ Reaume 63.

fastened over the entire bathtub with only the patient's head protruding from a hole above the sheet. The patient laid in this position in the bath for hours and had no allowance for relieving themselves except for in the bath water. Dependent upon the diagnosis, this therapy was repeated for days.

Over the next eight months, there was no "evidence of her previous psychosis" until October when she returned to a manic state and attempted suicide by strangulation.⁵⁰⁰ Hilda was placed back into continuous bath therapy along with "cerebral sedatives" until December 1933.⁵⁰¹ In February 1934 she was transferred to Ontario Hospital, Mimico. Hilda had just turned twenty-one. The Ontario Hospital, Mimico psychiatrists diagnosed Hilda with catatonic dementia praecox.⁵⁰² By October 1934 she was allowed to go home on probation to Campbellford to live with her cousin, her cousin's husband, and their nine year old son.⁵⁰³ There was no further information in Hilda's patient file until June 1957, when she was admitted to the Ontario Hospital, Kingston by two physician's certificates.⁵⁰⁴

In the intervening period, Hilda had given birth to a son of out wedlock and subsequently married the father.⁵⁰⁵ While her husband was overseas in the military during World War II, Hilda worked as a domestic in Toronto.⁵⁰⁶ After her husband returned, they moved to Belleville, Ontario. Her husband instigated her admission to Ontario Hospital, Kingston because of Hilda's

⁵⁰⁰ AO, RG 10-293.

⁵⁰¹ AO, RG 29-58.

⁵⁰² Dementia praecox is now known as schizophrenia.

⁵⁰³ AO, RG 10-293.

⁵⁰⁴ AO, RG 10-293.

⁵⁰⁵ AO, RG 10-293.

⁵⁰⁶ AO, RG 10-293.

three suicide attempts, plus he reported that her behaviour displayed a manic state, and he questioned her faithfulness to their marriage. She had become “uninterested in her home and her family”.⁵⁰⁷ Her husband also shared with the doctors his account of Hilda’s family history. Hilda’s father was an alcoholic and committed suicide by hanging when he was in his seventies. Hilda’s mother had an “unpredictable” countenance, swinging from “friendly” to “unapproachable”.⁵⁰⁸ A half-brother had been admitted to Ontario Hospital, Mimico several times and Hilda’s sister was an alcoholic.⁵⁰⁹

In a little over two weeks after admission into Ontario Hospital, Kingston, five doctors from the institution had assembled for a case conference to discuss Hilda’s diagnosis. Opinions were varied.

[T]he case could best be classified as Mental Defective with Psychosis, but there was considerable evidence from the history which had come in from the Ontario Hospital, New Toronto, that the patient could also be classified as Catatonic Schizophrenia. Other people argued that a label of Schizo-affective Psychosis could be applied and still others felt that the patient was a Hysterical Psychopath.⁵¹⁰

Two days after her diagnosis Hilda received probation with her husband and went home. A letter was sent to Hilda’s household in December which enquired into her health with a notification that the probation period was to expire in January. When the letter was returned to

⁵⁰⁷ AO, RG 10-293. There is a plethora of literature that dates back to the mid-1800s that has claimed husbands institutionalized wives for misogynistic and masculinist reasons. An example is two first-person accounts found in Jeffrey L. Geller and Maxine Harris’ book, *Women of the Asylum: Voices from Behind the Walls 1840-1945*, Doubleday, 1994, specifically Elizabeth Parsons Ware Packard 58-68 and Alice Bingham Russell 192-202.

⁵⁰⁸ AO, RG 10-293.

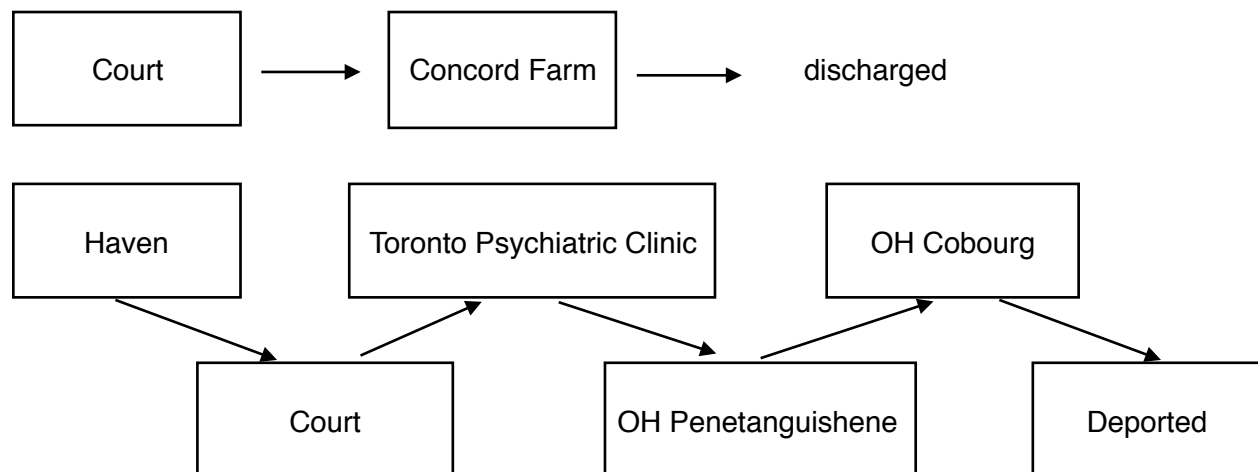
⁵⁰⁹ I have been unable to confirm these allegations.

⁵¹⁰ AO, RG 10-293.

Ontario Hospital, Kingston unopened with no forwarding address, Hilda was discharged from the hospital as “improved”. She passed away a few decades later.⁵¹¹

Hilda, as a juvenile, was committed for incorrigibility, a disposition according to *The Industrial Schools Act* that was to be for no more than three years detention in an industrial school. In addition, medical professionals had discussed the possibility of sterilizing Hilda at the age of sixteen. Hilda was detained for over seven years in five different institutions until she received probation. I suggest that although legislation such as *The Industrial Schools Act* and *The Female Refuges Act* included defined periods of institutionalization, they were also finely crafted to ensure consecutive and continued institutionalization to preserve the eugenic ideals of segregation.

Ivy Ingram



⁵¹¹ “Obituaries”, *Belleville Intelligencer*.

Like Edith Evans, Ivy Ingram was another British Home Child. And much like Alice Anderson, Ivy's story is an example of the use of immigration laws to rid the country of undesirable individuals. However, in this time frame, the forced repatriation had become egregious.

Ivy was born in Liverpool, England in 1904.⁵¹² When she was a young child, her father abandoned the family and Ivy, her mother, and three sisters were left to fend for themselves. By 1911, Ivy's two older sisters were living in the combined workhouse and hospital in Liverpool, a charitable institution for the poor and destitute.⁵¹³ The following year, Ivy, aged eight, along with two of her sisters, immigrated from Liverpool to Canada as British Home Children with Mrs. Birt's Sheltering Home.⁵¹⁴ Their destination was the "Distributing Home" in Knowlton, Quebec, located between Montreal and Sherbrooke.⁵¹⁵ Upon arrival at the Distributing Home, Ivy and her sisters were sent to live (separately) as domestics in people's homes.⁵¹⁶ Over the next ten years, Ivy lived and worked as a domestic in Ottawa, Bobcaygeon, Stratford, Mitchell, and finally Hamilton where she was a laundress at the Hamilton General Hospital.⁵¹⁷

It was in Hamilton where she met Bob Ingram, her husband to be. They wed in 1923 and moved to Norwich (in southwestern Ontario) to help with the Ingram's family business of mason work and plastering. Ivy and Bob lived with his family for a couple of years before they

⁵¹² AO, RG 29-58.

⁵¹³ National Archives of the UK, Census, 1911.

⁵¹⁴ LAC, RG 76-C; The eldest sister remained with their mother in Liverpool.

⁵¹⁵ LAC, RG 76-C.

⁵¹⁶ AO, RG 29-58.

⁵¹⁷ AO, RG 29-58.

purchased a home of their own nearby. According to the family history from Childrens' Aid in Woodstock,

[Bob] wasted his money gambling, and to some extent in drinking. [Ivy] was a poor home-maker. On the first visit, the house was in a deplorable condition. New bedding and furniture were procured for them and the family was re-established. Poor house-keeping was responsible for [Bob's] preferring the pool-room to his own home.⁵¹⁸

In December 1927, Bob had lost his job and he deserted his family, which consisted of a pregnant Ivy and three children. The three children were placed with the Children's Aid Society in Woodstock, and Ivy, six months pregnant, was sent to the hospital in Woodstock to await the birth of her child. After Ivy's daughter was born, the family (minus Bob) were re-established in Norwich. Bob refused to cohabit with Ivy and was ordered by a police magistrate to pay Ivy ten dollars weekly, but he did not comply.⁵¹⁹ He was arrested for non-support but released after ten days in the Oxford jail because he was unable to "secure regular employment".⁵²⁰ In the meantime, it was claimed (unclear by whom) that Ivy had neglected her children and therefore the "village refused financial relief."⁵²¹ By September, Ivy's three children (with the exception of the baby) were again placed with Children's Aid. According to the Cobourg patient file, there was also a court order issued to institutionalize Ivy in the local House of Refuge, but I have been unable to find this document. Ivy escaped with her baby to Toronto.

She arrived in Toronto in November 1928 and sustained her and her baby by various forms of employment which included domestic work, office-cleaning, and as a waitress in a

⁵¹⁸ AO, RG 29-58.

⁵¹⁹ AO, RG 29-58.

⁵²⁰ AO, RG 29-58; AO, RG 20-104, Administrative Records of the Woodstock Jail.

⁵²¹ AO, RG 29-58.

Chinese cafe.⁵²² In May 1929, Ivy, then a domestic, was charged under a breach of *The Liquor Control Act* and Magistrate Cohen sentenced to her to thirty days at the Concord Industrial Farm and fined her \$29.00 for being drunk in a car.⁵²³

At the end of 1929, her eighteen month old daughter was in the Salvation Army home but due to non-payment, Ivy had to remove her. Homeless, Ivy and her daughter had spent a night in a Toronto police station where a social agency contacted the Salvation Army Haven to enquire if they would admit Ivy and her daughter. The Haven was willing to admit Ivy, who was quite ill at the time, but her daughter had to be taken to the Infants' Home.⁵²⁴

The superintendent of the Haven, Effie Chestnut, reported that “[Ivy] has given no trouble since coming to the Haven. She is quiet and obedient and not quarrelsome.” Ivy was thereafter examined at the Toronto Psychiatric Clinic in February 1930 where her IQ was determined to be 56.⁵²⁵ In March, Ivy’s daughter was sent to the Woodstock Children’s Aid Society and at the beginning of May, Ivy ran away from the Haven. She was arrested two weeks later for vagrancy while she was living with a Mrs. Henderson, who was a “coloured” woman. The section of the *Criminal Code* was not stated on any document, but I suspect, given the comments from the physician’s certificate below, that she was arrested for being a prostitute.⁵²⁶ I suggest that the catalyst for Ivy’s arrest was because she eloped from the Haven, although the superintendent of the Haven confirmed Ivy had not been committed to the Haven and was

⁵²² AO, RG 29-58.

⁵²³ *The Liquor Control Act*, R.S.O. 1927, c. 257; AO, RG 20-165, Records of Concord Industrial Farm for Women.

⁵²⁴ AO, RG 29-58.

⁵²⁵ AO, RG 29-58.

⁵²⁶ *Criminal Code*, R.S.C. 1927, c. 36, s. 238(i).

admitted of her own volition. This is why she may have been arrested for vagrancy rather than escaping.

Magistrate Patterson of the Toronto Women's Police Court remanded Ivy to the Toronto Psychiatric Hospital.⁵²⁷ Two Physician's Certificates were completed that claimed Ivy had "been living a life of prostitution" and "not the type that will profit by training as she has no moral sense and will always be a danger in the community, both to herself and others."⁵²⁸ Patterson certified Ivy as being insane and dangerous to be at large, the Deputy Provincial Secretary signed a Warrant for Removal to Hospital to the Ontario Hospital, Penetanguishene, and Ivy was admitted in July 1930.⁵²⁹

Upon admission, Ivy went on a hunger strike complaining "she would not eat until she got better food."⁵³⁰ After three days she capitulated. A few weeks later, she was diagnosed with imbecility. By October, it was noted in her patient file that she was "extremely anxious to get home, claims that she was only sent here for three months."⁵³¹ Over the next month, Ivy had tried to escape twice, but had been unsuccessful. A case conference was held in March 1931 and the possibility of probation was discussed. "She is very anxious to return home and in conference said that she was willing to be sterilized and the members of the Conference recommended that this be done."⁵³²

⁵²⁷ AO, RG 29-58.

⁵²⁸ AO, RG 29-58.

⁵²⁹ *The Hospitals for Insane Act*, R.S.O. 1927, c. 353, ss. 18, 19; AO, RG 29-58.

⁵³⁰ AO, RG 29-58.

⁵³¹ AO, RG 29-58.

⁵³² AO, RG 29-58.

Eighteen months after admission, in January 1932, it was noted that “[t]his patient has been making so much disturbance and become so incorrigible that her clothes have been taken away and she has been put to bed for at least 48 hours.” Two weeks later, Ivy escaped with two other patients, but was captured and returned within three hours. In August she tried again with another patient, but they had been found by the evening. They were questioned why they had eloped and “they both maintained they had been kept here too long and had been promised their liberty months back.”⁵³³ Over the next two years Ivy had become more defiant, with doctors reporting “[t]his patient is an agitator and incites other patients to rebellion.” After five and one-half years of being institutionalized in Ontario Hospital, Penetanguishene, Ivy was transferred on New Year's Eve to Cobourg. Six months later in July 1936, Ivy was commended as being “an excellent worker and behaviour has been very good since admission. Promotion.”⁵³⁴ This notation referred to unpaid patient labour in the asylum.⁵³⁵ Ivy had received an occupational promotion from the dining room waitress group, to housework in the main building, to housework in the nurses' home, located across the street from the hospital.

A document from the Minister of Immigration and Colonization was inserted into Ivy's patient file which read in part, “[s]he has a mental age of 8 years 11 months and an Intelligence Quotient of 52, and is diagnosed as a Low Grade Moron. She has been a mentally defective

⁵³³ AO, RG 29-58.

⁵³⁴ AO, RG 29-58.

⁵³⁵ While the subject of patient labour is outside the scope of this thesis, it is an important topic. For highly informative discussions on patient labour, see Geoffrey Reaume, *Remembrance of Patients Past: Patient Life at the Toronto Hospital for the Insane, 1870-1940*, University of Toronto Press, 2009; Reaume, "Patients at Work: Insane Asylum Inmates' Labour in Ontario, 1841-1900," *Rethinking Normalcy: A Disability Studies Reader*, edited by Tanya Titchkosky and Rod Michalko, Canadian Scholar's Press, 2009, 158-180; Reaume, "No Profits, Just a Pittance: Work, Compensation, and People Defined as Mentally Disabled in Ontario, 1964-1990," *Mental Retardation in America: A Historical Reader*, edited by Steven Noll and James W. Trent, Jr., New York University Press, 2004, 466-493.

person since birth, and entered Canada as such.”⁵³⁶ The *Immigration Act* in 1927 stipulated that a person of a prohibited class, unless they were a Canadian Citizen or had Canadian domicile (defined as living in Canada for at least five years), could not remain in Canada if they were “idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane at any time previously.”⁵³⁷ Ivy had lived in Canada for eighteen years and acquired domicile before being diagnosed “insane” and institutionalized. According to the aforementioned immigration document, she had entered Canada as mentally defective because she only had a mental age of eight years and eleven months. It was irrelevant that she had entered Canada at the age of seven years and seven months.

Ivy Ingram was discharged from Cobourg in May 1937 and was transported to Montreal to be deported, alone, without any of her children, to England after living in Canada for over twenty-five years. The doctors wrote, “[s]he is in good health and quite pleased with her prospective trip.”⁵³⁸ I discovered Ivy in 1939 in Liverpool, living with her sister (who had stayed behind with their mother), her sister’s husband, and her mother.⁵³⁹ Ivy lived to the age of seventy-one, dying of bronchopneumonia.⁵⁴⁰

Ivy’s story of deportation was not the only forced repatriation in the 1930s. My research revealed that starting in late October 1930, it came to the Canadian public’s attention (and also to

⁵³⁶ AO, RG 29-58.

⁵³⁷ Definition of domicile, *Immigration Act*, R.S.C. 1927, c. 93, s. 2(e)(i). Definition of prohibited class of insane persons, *Immigration Act*, R.S.C. 1927, c. 93, s. 3(a).

⁵³⁸ AO, RG 29-58.

⁵³⁹ National Archives of the UK, 1939 Register.

⁵⁴⁰ AO, MS 935. What happened to Bob Ingram? He moved in with another woman while Ivy was institutionalized and proceeded to have ten more children. I could not find a divorce record between Bob and Ivy. What happened to Bob and Ivy’s children? Other than they were made permanent wards of the Children’s Aid Society, I have been unable to discover any information about them.

the British public) that non-Canadian-born individuals with epilepsy who were housed, however briefly, at an Ontario Hospital were being deported back to their home countries.⁵⁴¹ From late October to mid-November, 1930, the *Toronto Daily Star* and *The Globe* included articles every few days regarding the deportation of epileptics, some headlines emblazoned across the front page.⁵⁴² The Provincial Health department responsible for Ontario Hospitals had pointed the finger at the Federal Immigration department claiming it was a federal decision to deport individuals. The Federal Immigration department disagreed, and refused to take sole responsibility for the deportations and claimed to comply with deportation only at the province's insistence.⁵⁴³

This was also the finding of Shin Imai in his article "Deportation in the Depression", which referred to the uptick in deportations during the Great Depression, especially of those who had become public charges even though some had resided in Canada for over a decade.⁵⁴⁴ A private member's bill was introduced in 1931 in the House of Commons to prevent "deportations after ten years' residence in Canada[.]"⁵⁴⁵ It was asserted "[i]n a ten-year period undoubtedly they will have severed their connections with the old country; the likelihood is that their families

⁵⁴¹ A sampling of newspaper articles from the United Kingdom include "Beeston Woman in Canada," *The Nottingham Evening Post*, 1 November 1930, 6; "Deported from Canada," *The Yorkshire Post*, 10 November 1930, 9; "Bristol Woman Deported," *Western Daily Press, Bristol*, 1 November 1930, 9; "Deported from Canada," *Aberdeen Press and Journal*, 6 November 1930, 4; "Deported from Canada," *The Western Morning News and Mercury*, 27 October 1930, 5.

⁵⁴² A sampling of front page headlines include "Third Ontario Woman Ordered Deported," *The Toronto Daily Star*, 27 October 1930, 1, 27; "Ferguson Silent on Deportations," *The Toronto Daily Star*, 29 October 1930, 1, 2; "Deportee at Montreal Goes Back to Hospital at Ontario's Request," *The Globe*, 31 October 1930, 1.

⁵⁴³ William Marchington, "Ontario to Blame for Deportations, is Ottawa Claim," *The Globe*, 28 October 1930, 2.

⁵⁴⁴ Shin Imai, "Deportation in the Depression", *Queen's Law Journal*, vol. 7, no. 1, Fall 1981, 75,

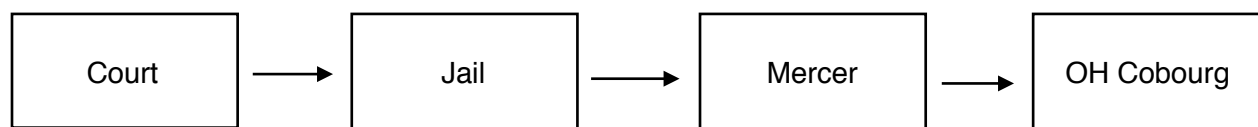
⁵⁴⁵ Imai 75.

will have been broken up and they will have no home to return to should they be deported.”⁵⁴⁶

The federal government responded that the provinces and municipalities were complaining about the “financial burden” of caring for public charges (including those who were institutionalized), and Ottawa was receiving pressure to deport these individuals to ease the burden.⁵⁴⁷ Ivy was ensnared in the “wholesale deportation”⁵⁴⁸ of individuals who were public charges.

Ivy Ingram was convicted of vagrancy, a summary conviction offence that carried a sentence of no more than six months under the *Criminal Code*. She was certified as insane and was institutionalized for almost seven years before her deportation to England, after living in Canada for over twenty-five years.

Jane Jackson



Jane Jackson represents women who were institutionalized to ensure their sexual behaviour was curtailed, and were to be kept institutionalized throughout their child-bearing years. This file was more blatant than others regarding the eugenic ideal of segregation, not for the care of the individual for her own protection but rather for the good of society so that no more illegitimate children were born.

⁵⁴⁶ Imai 75, 76.

⁵⁴⁷ Imai 76.

⁵⁴⁸ Imai 77.

Jane was born in central Ontario in 1905, one of nine children.⁵⁴⁹ She started attending school at eight years old, and the following year it was decided that she live with her maternal grandmother because her grandmother's home was much closer to the school. While living with her grandmother, according to Jane's patient file, her paternal uncle who lived nearby "tried to be familiar with her" but she resisted.⁵⁵⁰ She eventually had sexual relations with him on numerous occasions and became pregnant at the age of fifteen. A baby girl was born but survived less than five weeks.⁵⁵¹ The father of the baby listed on the baby's death record was not her paternal uncle, but rather her maternal uncle, the son of the grandmother she was living with.⁵⁵²

At age eighteen, Jane left her home to keep house on a farm where a man lived with his mother. The farmer became attentive to Jane and they had regular intercourse in the barn. Jane again became pregnant and moved home because the farmer refused to support her in any way. Afterwards, she learned he was married though not living with his wife. A baby girl was born of this relationship and Jane moved to her grandmother's house with the baby.⁵⁵³

A male neighbour became interested in Jane and promised to marry her. Jane subsequently got pregnant and a baby girl was born. The neighbour continued to court Jane at her grandmother's house where Jane and his baby were living, (along with Jane's other child,) although he kept deferring the wedding. It was unclear who notified the police, but the police arrested Jane at her grandmother's house and she was removed to the police court in Halliburton

⁵⁴⁹ AO, RG 29-58.

⁵⁵⁰ AO, RG 29-58.

⁵⁵¹ AO, RG 29-58; AO, MS 935.

⁵⁵² AO, MS 935.

⁵⁵³ AO, RG 29-58.

where it was discovered she was pregnant again. The male neighbour was present at the trial and denied any knowledge of Jane's pregnancy and never contributed to any support of Jane or his child(ren).⁵⁵⁴

In the Warrant of Commitment it stated Jane was convicted of corrupting children under section 215 of the *Criminal Code*, which read:

Any person who, in the home of a child, by indulging in sexual immorality, in habitual drunkenness or in any other form of vice, causes such child to be in danger of being or becoming immoral, dissolute or criminal, or the morals of such child to be injuriously affected, or renders the home of such child an unfit place for such child to be in, shall be liable, on summary conviction, to a fine not exceeding five hundred dollars or to imprisonment for a period not exceeding one year or to both fine and imprisonment.⁵⁵⁵

The magistrate sentenced Jane to "six months followed by nine months indeterminate" in the Mercer.⁵⁵⁶ This sentence was consistent with the *Prisons and Reformatories Act* that provided for any female convicted under a federal law can be sentenced to no more than two years in the Mercer.⁵⁵⁷ After being detained for three weeks in the Lindsay jail, Jane was transferred to the Mercer at the beginning of August 1931.⁵⁵⁸ She gave birth to a baby girl in October at the Toronto General Hospital, and she and her baby were returned to the Mercer two weeks later.

Approximately a year into Jane's sentence, discussions were held to have Jane transferred to an Ontario Hospital due to mental defect and unable to resist immorality.⁵⁵⁹ *The Andrew*

⁵⁵⁴ AO, RG 29-58.

⁵⁵⁵ *Criminal Code*, R.S. 1927, c. 36, s. 215(2).

⁵⁵⁶ AO, RG 20-50.

⁵⁵⁷ *Prisons and Reformatories Act*, R.S.C. 1927, c. 163, s. 57.

⁵⁵⁸ AO, RG 29-58; AO, RG 20-50.

⁵⁵⁹ AO, RG 20-50.

Mercer Reformatory Act allowed for the transfer of an inmate who was certified as mentally defective, to “be transferred to a suitable institution for care and training[.]”⁵⁶⁰ In accordance with admission procedures under *The Hospitals for the Insane Act*, two physician’s certificates were completed, along with the requisite form of the patient’s history.⁵⁶¹ Jane’s daughter was handed to the Children’s Aid Society and Jane was transferred to Cobourg in October 1932 “as requiring institutional care for her own protection.”⁵⁶² A few weeks after admission, Jane was diagnosed with mental deficiency without psychosis, an imbecile. A concern the doctors reported was that Jane expressed no remorse over having illegitimate children. She claimed she was a good mother and did not understand why she was institutionalized.⁵⁶³

After six years of institutionalization in Cobourg, Jane was placed on probation as a domestic in a home chosen by social workers affiliated with Cobourg. Her probationary period began in July 1938 and continued for the next number of years. There was a discussion in 1947 as to whether she should be allowed to go home, but it was felt “she should continue probation until she is past the menopause as her home wasn’t good, also her teenaged daughter has become an unmarried mother, and is under the care of the Children’s Aid Society Lindsay.”⁵⁶⁴

For the following year, the social workers praised Jane as being very thrifty, seldom complaining, quiet, and obedient, but could easily be led into trouble. Still on probation as a

⁵⁶⁰ *The Andrew Mercer Reformatory Act*, R.S.O. 1927, c. 346, s. 22.

⁵⁶¹ *The Hospitals for the Insane Act*, R.S.O. 1927, c. 353, s. 6.

⁵⁶² AO, RG 29-58.

⁵⁶³ AO, RG 29-58.

⁵⁶⁴ AO, RG 29-58.

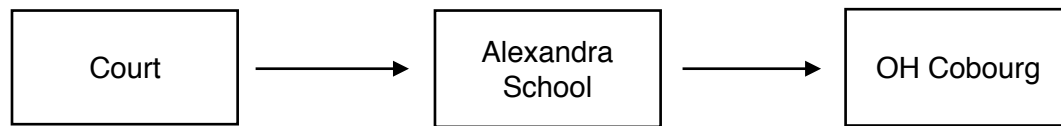
domestic, “[s]he works away all the time thinking that some day she will go home.”⁵⁶⁵ In 1950, comments were written throughout the year that Jane was passing through menopause and the doctors were tracking her menstrual cycle. By September 1951 she was allowed on probation with her brother because Jane’s mother had become physically deteriorated and in need of help. In the new year an investigation was conducted by a social worker on Jane’s parent’s home. The social worker noted that everyone and everything was clean and well cared for, and Jane’s siblings were helping with purchasing groceries, and visiting Jane and their parents. Her parents claimed Jane was “a God send” and all seemed contented. “Worker feels that [Jane] according to her age also her good behaviour, she could get along well in the community if discharge was considered.” Jane was discharged from Cobourg at age forty-seven. “The patient at the moment is looking after her aged parents. She is past the menopause. There seems to be no reasonable excuse for keeping her on the hospital books any longer and she is, therefore, discharged.”⁵⁶⁶

Jane was initially incarcerated in 1931 at the age of twenty-six and was supposed to have been an inmate for no more than fifteen months, although the sentence under the *Criminal Code* was for no more than one year. By reason of mental defect, she was institutionalized for a further twenty years, including her probation. The only reason Jane was discharged from Cobourg was that she had reached menopause.

⁵⁶⁵ AO, RG 29-58.

⁵⁶⁶ AO, RG 29-58.

Kate King



Kate King had a childhood that included her mother exploiting Kate as a young teenage prostitute. This file is an example of the court removing a child from her home and placing her in an industrial school for her “protection and special training”.⁵⁶⁷ Kate was also part of the mass transfer of girls from the Alexandra Industrial School to Cobourg in 1934.

Kate was born in 1916 in North Bay, Ontario to previously widowed parents who had married in 1914.⁵⁶⁸ Kate, who was placed in a “sub-normal class”, had been expelled from school at the age of fifteen because she and a group of other students were engaging in “indecent acts” in a nearby park.⁵⁶⁹ Soon thereafter, her father claimed that his wife and daughter would leave home early in the evenings and return between two and three o’clock in the morning. When he questioned his wife about their absence, she replied it was not his concern. Kate later explained to doctors that she had been sexually active since the age of thirteen or fourteen, and her mother had received money for Kate’s sexual activities. Kate also acknowledged that she would drink when she was out with her mother.⁵⁷⁰

Although it was unclear who contacted the police to apprehend Kate and arrest her mother, I believe it was her father. Kate was taken to Juvenile Court in North Bay and was

⁵⁶⁷ AO, RG 29-58.

⁵⁶⁸ AO, RG 29-58.

⁵⁶⁹ AO, RG 60-3.

⁵⁷⁰ AO, RG 60-3; AO, RG 29-58.

convicted of being a “juvenile delinquent”, and that “she did on or about the [30th day of May, 1931], at North Bay, unlawfully have sexual intercourse with one Frank Nunzio.”⁵⁷¹ The definition of a juvenile delinquent was set out in the *Juvenile Delinquents Act*, section 2(g):

“juvenile delinquent” means any child who violates any provision of the Criminal Code or of any Dominion or provincial statute, or of any by-law or ordinance of any municipality, for which violation punishment by fine or imprisonment may be awarded, or who is guilty of sexual immorality or any similar form of vice, or who is liable by reason of any other act to be committed to an industrial school or juvenile reformatory under the provisions of any Dominion or provincial statute[.]⁵⁷²

The file did not state which statute she was committed under, but I believe it was the *Juvenile Delinquents Act*, specifically section 17(g), “In the case of a child proved to be a juvenile delinquent the court may (. . .) commit the child (. . .) if a girl, to an industrial school or refuge for girls[.]” Kate, aged fifteen, was sent to the Alexandra Industrial School in accordance with *The Industrial Schools Act* which provided for a judge to make an order in writing to send the child to an industrial school.⁵⁷³

Kate’s mother was concurrently convicted of contributing to juvenile delinquency, most likely under section 30 of the *Juvenile Delinquents Act*.⁵⁷⁴ She was sentenced to serve nine months at the Mercer, which she completed in full and thereafter returned to North Bay.⁵⁷⁵

The admission documents for the Alexandra Industrial School indicated that Kate was to receive academic and vocational instruction under “careful supervision” and her home

⁵⁷¹ AO, RG 60-3.

⁵⁷² *Juvenile Delinquents Act*, R.S.C. 1927, c. 108, s. 2(g).

⁵⁷³ *Juvenile Delinquents Act*, R.S.C. 1927, c. 108, s. 17(g); *The Industrial Schools Act*, R.S.O. 1927, c. 329, s. 9(4).

⁵⁷⁴ *Juvenile Delinquents Act*, R.S.C. 1927, c. 108, s. 30.

⁵⁷⁵ AO, RG 20-50.

environment was “exceedingly poor.” Her records declared she was “stupid and neglected”, her body, including genitals, were in “filthy condition” and her teeth were “the worst case in years.”⁵⁷⁶ Although it was recommended for Kate to be transferred to the Ontario Hospital, Orillia, she was not eligible because she was infected with gonorrhoea which required “daily bichloride douches and silver nitrate treatment.”⁵⁷⁷

Over the years in the industrial school, it was reported that Kate was gentle, quiet, amenable, but had limited abilities and judgement. She could perform under supervision, but was “utterly unable to earn own living.” There was “no sign of sex disturbance” and it was believed her past sexual immorality was due to her surroundings.⁵⁷⁸ It was also noted that Kate “thinks a lot of her father.”⁵⁷⁹ He had come from North Bay to visit Kate, and though illiterate, had dictated letters that someone wrote on his behalf and sent to Kate once a month. After being detained in the Alexandra Industrial School for two years and ten months, she was certified as feeble-minded, and along with two physician’s certificates and her history form completed, an order of approval for her transfer to Cobourg was signed by the Minister of Welfare and Municipal Affairs, in accordance with the admission requirements under *The Hospitals for the Insane Act*.⁵⁸⁰

⁵⁷⁶ AO, RG 60-3.

⁵⁷⁷ AO, RG 60-3. *The Venereal Diseases Prevention Act*, S.O. 1918, c. 42, s. 3 allowed for the examination of any person who was arrested or in custody, or committed to any place of detention, for the doctor to ascertain if the individual was infected with a venereal disease.

⁵⁷⁸ AO, RG 60-3.

⁵⁷⁹ AO, RG 29-58.

⁵⁸⁰ *The Hospitals for the Insane Act*, R.S.O. 1927, c. 353, s. 6.

She was admitted to Cobourg in August 1934. Her diagnosis was mental deficiency without psychosis, a high grade moron. Remarks in her patient file included “not aggressive sexually but easily led”, “shy and seclusive”, “truthful and honest, not at all deceitful”, and well-behaved. The doctors also noted that she “seems to improve greatly when particular notice is taken of her.”⁵⁸¹

Three years after her admission to Cobourg, Kate, aged twenty-one, was transferred to Lorimer Lodge, a type of ‘half-way house’ where women who were institutionalized in Cobourg could reside in downtown Toronto and be placed out as domestics, while still being under the legal authority of the Ontario Hospital system.⁵⁸² She escaped after seven months, in February 1938. She was located because she had wanted to find work for herself and had asked about a position at the Young Women’s Christian Association (YWCA). A bailiff returned her to Cobourg within two weeks. She was transferred back to Lorimer Lodge in October 1939 where she was again placed out in a position as a maid. This time she escaped in March 1941, after seventeen months. She was unable to be located and after sixty days had elapsed, she was discharged in May 1941 at the age of twenty-five.⁵⁸³ Kate had obviously learned after her first escape not to remain in Toronto, because I discovered that she returned to North Bay and had married in 1943, giving birth to over a dozen children over the years.⁵⁸⁴

Kate was initially committed to the Alexandra Industrial School because her mother had exploited her as a teenage prostitute. She spent two years and ten months in the Alexandra

⁵⁸¹ AO, RG 29-58.

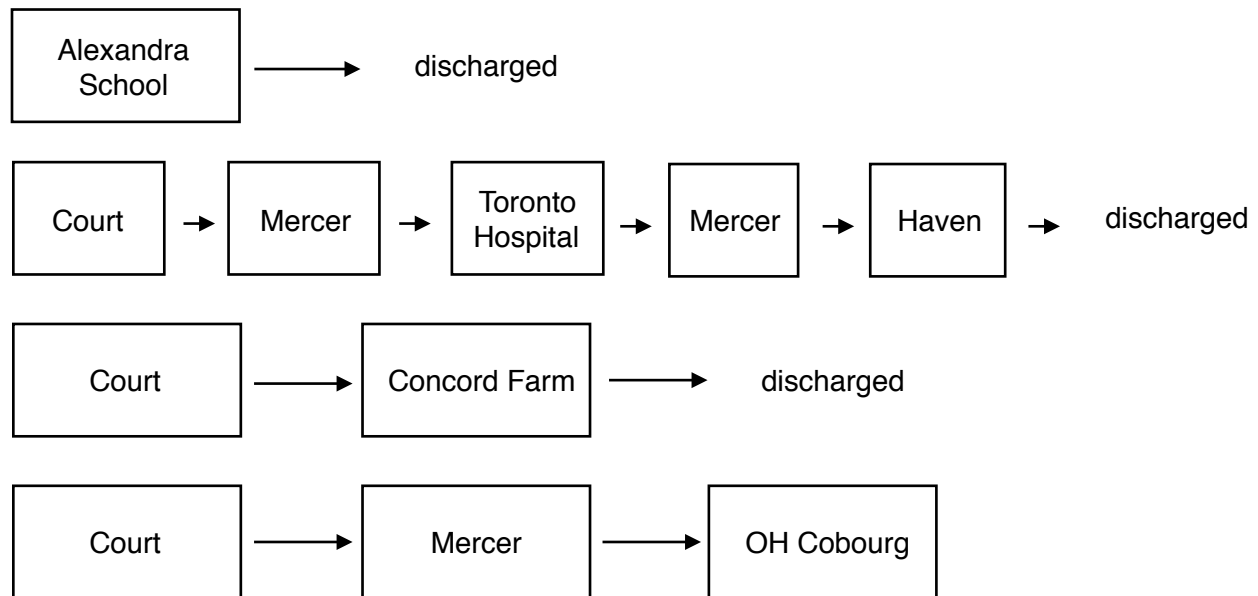
⁵⁸² Graham 305.

⁵⁸³ AO, RG 29-58.

⁵⁸⁴ Obituary.

Industrial School prior to being transferred to Cobourg, where she was institutionalized another seven years before escaping to return home to North Bay. If she had not escaped, it is unknown how long she would have been under the authority of the mental hospital system.

Lily Langford



Lily Langford had frequent interactions with various institutions, which ultimately led her into Cobourg. Lily was born in Bancroft, Ontario in 1898, the seventh child of nine children.⁵⁸⁵ Lily's mother died of tuberculosis when Lily was seven years old and her father remarried five years later to a woman who was thirty years his junior and pregnant.⁵⁸⁶ At the date of her father's

⁵⁸⁵ AO, MS 929; LAC, RG 31-C-1, 1901, 1911.

⁵⁸⁶ AO, MS 935; AO, MS 932.

second marriage, Lily was on the cusp of turning twelve and her step-mother had just turned twenty-one.⁵⁸⁷

Within four years, in 1914, a police magistrate for Bancroft had contacted J.J. Kelso, the superintendent for Neglected and Dependent Children in Toronto, and asked for guidance regarding Lily who was “completely incorrigible. She will steal, run away from home and lie out at nights and I believe she tried to poison her stepmother. Her father has tried hard to correct her and has shown great patience but he cannot do anything with her.”⁵⁸⁸ Kelso forwarded to the magistrate a form for committal to the Alexandra Industrial School, to where Lily was sent within days. The cause of the trouble listed was “home difficulties” and her mentality was noted as “slow”.⁵⁸⁹ In 1916, Lily’s father wrote to J.J. Kelso stating that Lily’s two year term was about to expire and he would be pleased to bring her home. The response he received from Kelso was direct.

Your daughter [Lily] is under the official care of the Alexandra School and it will be necessary to obtain their permission for her to be removed. You are under a wrong impression if you think that she was sent there for any given length of time. It depends entirely upon her conduct while in the institution as to when she will be released.⁵⁹⁰

This was not true. *The Industrial Schools Act* specifically stated at section 17(1), “Every child sent to an industrial school shall within three years from the date of the order be given over to the custody of his or her parents or be apprenticed or placed out in a foster home as the

⁵⁸⁷ AO, MS 929.

⁵⁸⁸ AO, RG 60-3.

⁵⁸⁹ AO, RG 60-3.

⁵⁹⁰ AO, RG 60-3.

industrial school board may deem advisable.”⁵⁹¹ In any case, Lily was released from the School five months later to the care of her father and step-mother to live and work at home. According to her Cobourg patient file, Lily’s step-mother was cruel to her. “She barely had enough to eat” and she ran away because her home life was difficult.⁵⁹² When Lily returned home from the Alexandra Industrial School at the behest of her father, her step-mother and the situation had not changed so she left home to find work in Trenton.

She met and married James Langford in Trenton in 1917 when she was nineteen years old. He received an army pension but he refused to support her so she had to work to make her own living.⁵⁹³ Lily became pregnant and gave birth to a still born child in 1918. The following year her husband abandoned her, and she moved to Toronto to find work as a domestic. Lily’s husband contacted her at her place of employment and they reconciled, until he absconded with her money, a cycle which repeated itself over the next two years. In 1921, Lily refused to meet with her husband so he contacted the Toronto Police Morality Department. Lily was taken to the inspector’s office where she was advised to “go back and live with him,” a direction to which she acquiesced.⁵⁹⁴ The following year she again became pregnant by her husband and bore a child with spina bifida, who only lived for two months.⁵⁹⁵ Her husband then abandoned her and was not seen again.⁵⁹⁶

⁵⁹¹ *The Industrial Schools Act*, R.S.O. 1914, c. 271, s. 17(1).

⁵⁹² AO, RG 29-58.

⁵⁹³ AO, RG 29-58.

⁵⁹⁴ AO, RG 29-58.

⁵⁹⁵ AO, RG 29-58; AO, MS 935.

⁵⁹⁶ AO, RG 29-58.

Shortly thereafter, Lily found work as a domestic for a Mr. Rhodes in Toronto.⁵⁹⁷ She became pregnant by Mr. Rhodes and he ordered her out of his house. She moved to Belleville and acquired a position as a domestic, but was arrested for theft soon afterwards for stealing twenty-two dollars from her employer.⁵⁹⁸ According to her Warrant of Commitment, Lily was convicted under section 258 of the *Criminal Code* and was sentenced to the Mercer “for a period of six months, and for an indefinite period thereafter not exceeding four months.”⁵⁹⁹

Lily was transferred to the Mercer in June 1923. Upon intake, it was discovered that she was four months pregnant. In September she tested positive for syphilis and was admitted to the Toronto General Hospital where she gave birth to a boy in December. She was subsequently transferred to the Haven with her baby where she was treated for syphilis and kept under observation. Lily and her baby were discharged in June 1924 to live with one of her sisters in Toronto.⁶⁰⁰

At her sister’s home, Lily worked by day as a domestic while her sister cared for the baby.⁶⁰¹ Eventually Lily found a live-in domestic position with a Mr. Johnson. After four months she was pregnant with Mr. Johnson’s child and a baby girl was born in 1925. Lily and her baby girl moved in with another one of Lily’s sisters in Toronto.⁶⁰² Two months later, Lily moved to

⁵⁹⁷ AO, RG 29-58.

⁵⁹⁸ AO, RG 20-50.

⁵⁹⁹ *Criminal Code*, R.S.C. 1906, c. 146, s. 258; AO, RG 20-50, Warrant of Commitment. I believe the magistrate inadvertently made a mistake in the Warrant. Section 258 was about causing injury by treatment resulting in death. Section 358 was regarding punishment for theft. I suggest Lily was sentenced under the *Prisons and Reformatories Act* that provided for alternative sentencing to and in the Mercer. *Prisons and Reformatories Act*, S.C. 1913, c. 39, s. 2.

⁶⁰⁰ AO, RG 20-50.

⁶⁰¹ AO, RG 29-58.

⁶⁰² AO, RG 60-3. Lily’s daughter was eventually placed in a foster home.

Bowmanville to keep house for a Mr. Ruby. She became pregnant and a baby boy was born in 1927. Ostensibly a neighbour reported Lily and her illegitimate child to the authorities, and a representative of Toronto's Infants' Home arrived in Bowmanville and transported Lily and her baby to the Haven.⁶⁰³

The next day, in December 1927, Lily was in the Toronto Women's Police Court before Magistrate Patterson and was sentenced to an indeterminate term of two years less a day at the Concord Industrial Farm for the offence of being a vagrant.⁶⁰⁴ The sentence to the Concord Industrial Farm seemed odd to me because the Concord Industrial Farm was a jail farm for women for short term detention that was considered an alternative to the Toronto jail, yet still a jail.⁶⁰⁵ To have been sentenced to the Concord Industrial Farm for vagrancy could only have been via a summary conviction offence under section 239 of the *Criminal Code*, with a punishment of imprisonment for no more than six months.⁶⁰⁶ Section 58, the sentencing provision under the *Prisons and Reformatories Act* allowed for transfer from a jail to a reformatory or industrial farm "for the unexpired portion of the term of imprisonment."⁶⁰⁷ It did not allow for alternative sentencing terms. Section 57 of the *Prisons and Reformatories Act* stipulated an alternative sentencing term for females convicted of vagrancy under the *Criminal*

⁶⁰³ AO, RG 29-58.

⁶⁰⁴ This is according to the jail register for the Concord Industrial Farm, AO, RG 20-165.

⁶⁰⁵ Glasbeek 24, 79.

⁶⁰⁶ *Criminal Code*, R.S.C. 1927, c. 36, s. 239.

⁶⁰⁷ *Prisons and Reformatories Act*, R.S.C. 1927, c. 163, s. 58.

Code, specifically an indefinite term of less than two years, but that was only if sentenced to the Mercer.⁶⁰⁸

I argue that Lily was not committed under *The Female Refuges Act*, although the term of detention was more consistent with *The Female Refuges Act*, and the fact that she had her baby boy with her would have been more conducive to the environment of an industrial refuge rather than an industrial farm. Section 2(1) of *The Female Refuges Act* allowed for “[a]ny female between the ages of fifteen and thirty-five years, sentenced or liable to be sentenced to imprisonment in a common gaol by a judge, **may be committed to an industrial refuge** for an indefinite period not exceeding two years.”⁶⁰⁹ (Emphasis mine.) I argue the Concord Industrial Farm was not an industrial refuge, defined as “an institution for the care of females[.]”⁶¹⁰ Further, section 2(3) of *The Female Refuges Act* stipulated the segregation of females into certain institutions according to religion, which was not a feature of the Concord Industrial Farm.⁶¹¹

Given that Lily arrived at the Concord Industrial Farm with her baby ten days after her sentencing, I expect she was not admitted to and transferred from an industrial refuge or the Mercer during that ten day period.⁶¹² I am unsure whether Lily was sent to the Concord Industrial Farm by accident or design, but I argue that the correct term of imprisonment for Lily should have been in accordance with the *Criminal Code*, no more than six months in the

⁶⁰⁸ *Prisons and Reformatories Act*, R.S.C. 1927, c. 163, s. 59.

⁶⁰⁹ *The Female Refuges Act*, R.S.O. 1927, c. 347, s. 2(1).

⁶¹⁰ *The Female Refuges Act*, R.S.O. 1927, c. 347, s. 1(a).

⁶¹¹ *The Female Refuges Act*, R.S.O. 1927, c. 347, s. 2(3).

⁶¹² AO, RG 20-165.

Concord Industrial Farm, and not an indeterminate sentence of two years less a day. Lily remained at the Industrial farm for twenty-one months, and was released in September 1929.⁶¹³

Upon her discharge, Lily made her way back into the employ of Mr. Rhodes and again became pregnant by him. In July 1930 she was arrested by the Toronto police for vagrancy and was immediately delivered to the hospital where she gave birth to twins. Shortly after giving birth, Lily was taken to the Toronto Women's Police Court to Magistrate Patterson again. She was sent to the Toronto Psychiatric Hospital for observation for ten days, returned to court, and was remanded to the care of the Salvation Army while the court was attempting to locate her husband, but to no avail.⁶¹⁴

Documents regarding Lily's commitment were not wholly consistent. According to the Cobourg patient file, in October 1930, Lily was sentenced to two years less a day at the Mercer.⁶¹⁵ The Toronto jail register listed Lily's offence as a "delinquent".⁶¹⁶ The Mercer file's intake record noted Lily's offence as "vagrancy", however, there was a Warrant of Commitment in the Mercer file, signed by Magistrate Patterson, that committed Lily under *The Female Refuges Act* due to "being a female under the age of thirty-five years, by reason of vice is leading an idle and dissolute life."⁶¹⁷ One may ask why Lily was not committed to an industrial refuge as per *The Female Refuges Act*, instead of the Mercer. Dr. Helen MacMurchy wrote about this situation years prior. "Private and benevolent agencies deal only with some of our first

⁶¹³ AO, RG 20-165. Lily's baby was transferred to the Infant's Home while she was incarcerated.

⁶¹⁴ AO, RG 29-58.

⁶¹⁵ AO, RG 29-58.

⁶¹⁶ AO, RG 20-100.

⁶¹⁷ AO, RG 20-50; *The Female Refuges Act*, R.S.O. 1927, c. 347, s. 15(1)(b).

offenders.”⁶¹⁸ Therefore, if a woman had been institutionalized or imprisoned previously and had not been reformed, it was likely she would have been incarcerated for subsequent offences.

By December, arrangements were being made to admit Lily into the Ontario Hospital, Orillia, although it is unknown under which statute Lily was being transferred.⁶¹⁹ Dr. Guest, the physician for the Mercer, completed a physician’s certificate and other documents required for admission by certificate under *The Hospitals for the Insane Act*.⁶²⁰ She wrote that Lily had been separated from her husband for eight years and had five illegitimate children and two legitimate children who were both dead. As for Lily’s moral sense, she “feels if she knew precautions she would not get pregnant but has no idea of being moral so as to prevent pregnancy.”⁶²¹

Lily was transferred to Cobourg instead of the Ontario Hospital, Orillia, in January 1931. She was diagnosed with mental deficiency without psychosis, a mid-grade moron. The doctors noted that she had no hallucinations or delusions, answered questions “intelligently and politely” but “looks as if she had gone through considerable sorrow and seems blue and discouraged.” Lily was “oriented as to time, place and person”, had an excellent memory, and was very neat and clean in her appearance, and a “very good worker.” The doctors’ concern was mostly centred upon her defective moral sense, that she could not “control her desires”, and her considerable faulty judgement “as evidenced by her repeated illegitimate pregnancies.”⁶²²

⁶¹⁸ AO, RG 8-9, B296943.

⁶¹⁹ AO, RG 20-50.

⁶²⁰ *The Hospitals for the Insane Act*, R.S.O. 1927, c. 353, s. 6.

⁶²¹ AO, RG 20-50.

⁶²² AO, RG 29-58.

In 1934, Lily's IQ was rated at 74, a mental age of eleven years, ten months. Four years later, her IQ was 66 with a mental age of ten years, six months. In those four years, her attitude towards work and other inmates was deteriorating. When first admitted, Lily was cheerful and would "assist and do exactly as she is told." After five years, she was not personable with the other patients and was becoming "autocratic and officious."⁶²³ It was decided in 1938 to place Lily on probation working as a domestic for a family in Cobourg. Over the next seven years, Lily continued on probation as a domestic for various families. The doctors noted in 1944 that "[Lily] is better working out of the hospital, as she is an agitator when living in."⁶²⁴

That same year, Lily's employer spoke to the doctors at Cobourg and stated that Lily's son would visit her biweekly. Her son would beg for money and Lily always provided him with some of her savings. The employer had confronted her son and admonished him that, "he ought to be ashamed of himself asking for money from his mother who worked hard to earn her wages."⁶²⁵ Lily was returned to Cobourg.

Three months later, Lily, aged forty-six, was back on rounds of probation as a domestic with different families. In October 1945, Lily eloped from her employer's home while the family was away, closing up their cottage. Lily had taken her ration book from her employer's purse and

⁶²³ AO, RG 29-58.

⁶²⁴ AO, RG 29-58.

⁶²⁵ AO, RG 29-58.

had withdrawn her savings from the bank. She then disappeared. After six months with no sign of Lily, she was discharged from Cobourg.⁶²⁶ Her whereabouts after her elopement are unknown.⁶²⁷

Lily was a woman who was in and out of institutions for over thirty years. Her first incarceration in the Mercer was to be for no more than ten months. She was discharged after twelve months. Her twenty-one month imprisonment in the Concord Industrial Farm was an odd sentence and likely excessive. Her last incarceration in the Mercer for vagrancy, which was supposed to be for an indeterminate term of two years less a day, ended with Lily being transferred to Cobourg and institutionalized for fifteen years until she took matters into her own hands and eloped. If she had not escaped, it is unknown for how many more years she would have been institutionalized.

⁶²⁶ AO, RG 29-58.

⁶²⁷ Whatever happened to her husband, James Langford? In 1941, an inspector for the police visited Cobourg because the police had received a letter from a police department in New Zealand. James Langford was being prosecuted in New Zealand on a charge of bigamy and the police needed to know whether Lily was still living.

Chapter Five

Conclusion

In the introduction to this thesis I argued that the use and abuse of alternative dispositions outside the criminal law resulted in a more severe and lengthier confinement for women. I set out to prove this by examining the progression of the *Juvenile Delinquents Act*, *The Industrial Schools Act*, the *Criminal Code*, *The Andrew Mercer Reformatory Act*, *The Female Refuges Act*, and *The Hospitals for the Insane Act* from the turn of the twentieth century to 1935. I also reviewed associated statutes and regulations that modified the aforementioned laws over the years. I provided a brief description of the main institutions where women in Cobourg had been previously detained, specifically the Alexandra Industrial School, Belmont, Mercer, and Cobourg, plus the Toronto Women's Police Court. I created patient narratives and flow charts of twelve women to unearth their pathways and the statutes that enabled their conviction in court through to their ultimate institutionalization in Cobourg.

Below is a chart that provides a summary of each of the twelve women's convictions/committals, her term of detention imposed by the court, her actual detention period, and her manner of exit from Cobourg. If a woman was incarcerated or institutionalized on multiple occasions, I calculated only the last appearance in court to institutionalization in Cobourg. What is not included in the chart is the sentencing term that would have been imposed under the *Criminal Code* (or the *Juvenile Delinquents Act*), because other than vagrancy, it is difficult to ascertain what the sentence would have been. (A sentence for vagrancy under the *Criminal Code* was for no more than six months. Alternative disposition for the same conviction/committal for

reformatory purposes under *The Andrew Mercer Reformatory Act/Prisons and Reformatories Act*, and *The Female Refuges Act*, was no more than two years less one day.)

Women's Conviction/Committal and Detention Chart

Name	Conv/Commit	Term of Detention	Actual Term	Manner of Exit
Alice Anderson	insanity	no term	19 1/2 months	deported
Bertha Baldwin	theft?	no term	13 years	death
Cornelia Campbell	insanity	2 months	11 years	death
Daisy Duncan	insanity	no term	4 1/2 years	death
Edith Evans	vagrancy	2 years less a day	4 1/2 years	eloped
Florence Foster	bigamy	no more than 1 year	19 months	discharged
Gertrude Gagnon	theft	2 years less a day	10 years	discharged
Hilda Harrison	incorrigible	3 years	7 years	discharged
Ivy Ingram	vagrancy	no term	7 years	deported
Jane Jackson	child corruption	15 months	21 years	discharged
Kate King	juvenile delinquent	3 years	10 years	eloped
Lily Langford	vagrancy	2 years less a day	15 years	eloped

Although the above women were not fully representative of all patients who had been convicted/committed through court and ultimately institutionalized in Cobourg, the chart above proved that each woman's actual term of detention was longer than their initial detention term. In the period pre-1919, three women died in Cobourg after spending years institutionalized, two of them detained for over a decade. Two foreign-born women were deported, one after being

institutionalized for seven years and living in Canada for over twenty-five years. Had British-born Edith not eloped, she may have suffered the same fate. Two other women had also eloped, one after being incarcerated and institutionalized for ten years and the other after fifteen years, both having realized being discharged from Cobourg was unlikely. Jane was discharged from Cobourg after twenty-one years, but only after she had reached menopause and her child-bearing years were over. For each of these women, analysis of the legislation and their patient/inmate files revealed the (over)use, abuse, and complexity of alternative dispositions.

My methodology of reviewing every patient file from Cobourg, rather than random sampling, was key to this study. The data provided distinct patterns of institutionalization in conjunction with highlighting legislative revisions throughout this time period. After the substantive revisions to *The Female Refuges Act* in 1919, there was an increase of women thereafter who were convicted of vagrancy, ultimately being committed to Cobourg. There was a sharp decrease in the age of women (and girls) committed to Cobourg by the 1930s, while the period of institutionalization had increased. Concurrently, women in Cobourg were increasingly displaying acts of resistance to their institutionalization by refusing to eat and attempting to escape, (sometimes succeeding). One can conclude that the above situations were largely a result of legislative revisions to gendered laws.

The review of institutions and their rise and demise provided insight into the differing forms of detention through alternative dispositions, but it also placed a spotlight on the active and physical erasure of Ontario's uneasy history of women and confinement. As noted previously, each of these institutions has either been demolished or repurposed. The Toronto Women's Court is no longer active, and today, knowledge of this specialized court is likely

confined to academia. I have been unable to physically locate the Alexandra Industrial School and I expect it is no longer extant, considering it was built on the now valuable real estate in the Beaches area of Toronto. Belmont is now exclusively a home for seniors “offering long term care and retirement living.”⁶²⁸ Its function as a female industrial refuge has been glossed over in the history of the Belmont House webpage, and the historical plaque located next to the front door only referenced the closing of the house of refuge in 1939.⁶²⁹ The Mercer was demolished in 1969 and in its place was built the Allan A. Lamport Stadium on King Street West in Toronto in the Liberty Village neighbourhood. I have been unable to discover any historical plaque that referenced the Andrew Mercer Reformatory. The Ontario Hospital, Cobourg is now a retirement home for seniors called Victoria Retirement, named for its previous operation as Victoria College. The plaque at the front of the building only references Victoria College,⁶³⁰ although their website included a mention of the building’s previous use as a provincial asylum.⁶³¹ Without awareness of these institutions, an important period of Ontario’s history and its women, (not only as superintendents and legal and medical professionals, but also inmates and patients,) is lost.

This thesis succeeds in bridging the academic gap between socio-legal and critical disabilities scholarship, although the pathways of women institutionalized in Ontario Hospitals and the legislation that enabled the process is a subject worthy of further exploration. Through

⁶²⁸ “Belmont House,” <http://www.belmonthouse.com/>.

⁶²⁹ “Toronto Plaques,” http://torontoplaques.com/Pages/Belmont_House.html ; “Belmont House,” <http://www.belmonthouse.com/AboutUs.aspx?SID=26> .

⁶³⁰ “Ontario Plaques,” http://www.ontarioplaques.com/Plaques/Plaque_Northumberland18.html .

⁶³¹ “Victoria Retirement Living,” <http://www.victoriaretirementliving.ca/history.asp> .

these pathways one would be able to track admission, transfer, and discharge/death patterns through various facilities, social policies would be highlighted such as continued surveillance of woman outside the institutions, and the resultant effects of ever-broadening statute revisions would be illuminated. This research may also unearth patterns and discourse related to religion, sexual identity, race, and foreign-born women, who were under the threat of deportation. While it is currently difficult to obtain access to certain archival record sets, further analysis of correctional and medical records is necessary, and will help provide a comprehensive legacy of the social, legal, medical, and psychiatric systems in Ontario related to the (mis)treatment of women in the twentieth century.

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Appendix "A": Physician's Certificate

3556 Chap. 295. PROVINCIAL HOSPITALS FOR INSANE. Form 1.

FORM 1.

(Section 7.)

Registered No.....
Case Book No.....

PROVINCE OF ONTARIO.

PHYSICIAN'S CERTIFICATE.

I, the undersigned (a) a legally qualified medical practitioner, residing and practising at (b) in the County of hereby certify that I, on the day of A.D. 19 , at in the County of separately from any other medical practitioner, personally examined (c) of (d) (e) and after making due enquiry into all facts in connection with the case of the said necessary to be enquired into in order to enable me to form a satisfactory opinion, I certify that the said is insane, and is a proper person to be confined in a hospital for the insane (if the insane person is an idiot, add and that the said is an idiot), and that I have formed this opinion upon the following grounds, namely:

1. Appearance.
2. Conduct.
3. Conversation.

1. Facts indicating insanity observed by myself:*

*The facts upon which (from personal observation) the opinion of insanity has been formed should always be specified.

(f) State the information and from whom received.

2. Other facts (if any) indicating insanity, communicated to me by others: (f)

Signed this day of A.D. 19 , at

Signed in the presence of

Witnesses.

1.

2.

Signature of Examining Practitioner.

N.B.—No person will be admitted to any Hospital for the Insane without the approval of the Superintendent or the Inspector, and the person should not be forwarded to such Hospital until notice has been received from the Superintendent or Inspector that admission has been awarded.

Extract from the Revised Statutes of Ontario (1914), Chap. 295, Sec. 7:

7. No person shall be admitted into any hospital, except as a voluntary patient or upon the warrant of the Lieutenant-Governor, without the certificates, Form 1, of two legally qualified medical practitioners, accompanied by the family history in the prescribed form and the financial and estate history in the prescribed form, and upon notice having been received from the superintendent of the hospital that there is a vacancy for the patient. 3-4 Geo. V. c. 83, Form 1.

3-4 Geo. V. c. 83, Form 1.

Appendix "B": Hospitals for the Insane Act, 1897, Schedule 2

3592

Chap. 317.

PUBLIC LUNATIC ASYLUMS.

Sched. 2.

SCHEDULE No. 2.

INFORMATION TO BE ELICITED UPON INQUIRY.

(Sections 19 and 20.)

1. The names in full and age of prisoner.
2. Occupation, religion and country.
3. Whether married or single ; and if single, whether ever married.
4. How many children, if any.
5. Address of parents or nearest relatives ; and in case of such relatives how connected.
6. How long prisoner has been insane.
7. Duration of the present attack, and whether the first.
8. How the insanity first shewed itself, and the supposed causes.
9. Whether any delusions, and if so, what they are.
10. Whether the prisoner is suicidal or dangerous to others.
11. Whether any offence has ever been committed by the prisoner, and whether the prisoner has been convicted of the same, with all particulars.
12. Whether the prisoner is subject to epilepsy or paralysis.
13. Whether any of the other members of the prisoner's family have suffered in a similar way, and whether the prisoner has ever been in an asylum, and if so when and where.
14. What have been the habits of the prisoner as to temperance, industry and general conduct, and in what manner they have changed—whether the change has been recent, gradual or sudden.
15. Whether the prisoner has been subject to any bodily ailments, and if so, their nature.
16. Degree of education of prisoner, and any other information that will in the opinion of the Justice or Justices aid the Medical Superintendent in the treatment of the case.
17. Whether the prisoner is idiotic, imbecile or incurable.
18. Whether the friends of the prisoner, or any of them, if such there be, are able to contribute to the maintenance of the prisoner while in an asylum, and which, if any, of such friends, and how much they, or any of them, can contribute.
19. The information required by section 19 of this Act.

R. S. O. 1887, c. 245, Sched. No. 2.

Appendix "C": Hospitals for the Insane Act, 1906, Schedule 2

1906.

CUSTODY OF INSANE.

Chap. 60.

519

7. Schedule No. 2 of the said Act is hereby repealed and the following substituted therefor:—

Rev. Stat.
c. 317, Sched.
No. 2 repealed.

SCHEDULE No. 2.

INFORMATION TO BE ELICITED UPON ENQUIRY.

(Section 18).

1. The name in full of alleged insane person.
2. Post Office address of such person.
3. County in which apprehended.
4. City, Town, Incorporated Village or Township in which apprehended.
5. How long a resident of such City, Town, Village or Township.
6. Age.
7. Occupation.
8. Religion.
9. Nationality.
10. Sex.
11. Whether married or single, and if single, whether ever married.
12. Name and Post Office address of husband, wife, parent or guardian, if any, and if guardian state relationship.
13. Number of children, if any, their names and ages, and their Post Office addresses, and if under age, state with whom residing.
14. How long such person has been insane.
15. Duration of the present attack, and whether the first.
16. How the insanity first showed itself, and the supposed causes.
17. Whether any delusions, and if so, what they are.
18. Whether such person is suicidal or dangerous to others.
19. Whether any offence has ever been committed by such person, and whether such person has been convicted of same, with all particulars.
20. Whether such person is subject to epilepsy or paralysis.
21. Whether any of the other members of such person's family have suffered in a similar way, and whether such person has ever been in an asylum, and if so when and where.
22. What have been the habits of such person as to temperance, industry and general conduct, and in what manner they have changed—whether the change has been recent, gradual or sudden.
23. Whether such person has been subject to any bodily ailments, and if so, their nature.
24. Degree of education of such person, and any other information that will in the opinion of the Justice or the Justices aid the Medical Superintendent in the treatment of the case.
25. Whether such person is idiotic, imbecile or incurable.
26. Whether the friends or relations of such person, or any of them, if such there be, are able to contribute to the maintenance of such person while in an asylum, and which, if any, of such friends, and how much they, or any of them, can contribute.
27. Has such person any property, real or personal? What does it consist of and where is it situated; also state value and encumbrances, if any?
28. Has such person any moneys on deposit in Banks? If so, in what bank and in whose possession are the deposit receipts, bank books or other acknowledgments of such deposit?
29. Give the name and Post Office address of the person in whose possession such acknowledgments, if any, are.
30. If such alleged insane person is under the age of twenty-one years what property, real or personal, has the parent or guardian. What does it consist of and where is it situated; also state value and encumbrances, if any.
31. Has such person any one dependent upon him for support? If so, state relationship, names, ages, and Post Office addresses.

CHAPTER

Appendix “D”: Criminal Code 1892, Vagrancy

Everyone is a loose, idle or disorderly person or vagrant who-

- (a) not having any visible means of maintaining himself lives without employment;
- (b) being able to work and thereby or by other means to maintain himself and family wilfully refuses or neglects to do so;
- (c) openly exposes or exhibits in any street, road, highway or public place, any indecent exhibition;
- (d) without a certificate signed, within six months, by a priest, clergyman or minister of the Gospel, or two justices of the peace, residing in the municipality where the alms are being asked, that he or she is a deserving object of charity, wanders about and begs, or goes about from door to door, or places himself or herself in any street, highway, passage or public place to beg or receive alms;
- (e) loiters on any street, road, highway or public place, and obstructs passengers by standing across the footpath, or by using insulting language, or in any other way;
- (f) causes a disturbance in or near any street, road, highway or public place, by screaming, swearing or singing, or by being drunk, or by impeding or incommoding peaceable passengers;
- (g) by discharging firearms, or by riotous or disorderly conduct in any street or highway, wantonly disturbs the peace and quiet of the inmates of any dwelling-house near such street or highway;
- (h) tears down or defaces signs, breaks windows, or door or door plates, or the walls of houses, roads or gardens, or destroys fences;
- (i) being a common prostitute or night walker, wanders in the fields, public streets or highways, lanes or places of public meeting or gathering of people, and does not give a satisfactory account of herself;
- (j) is a keeper or inmate of a disorderly house, bawdy-house or house of ill-fame, or house for the resort of prostitutes;
- (k) is in the habit of frequenting such houses and does not give a satisfactory account of himself or herself; or
- (l) having no peaceable profession or calling to maintain himself by, for the most part supports himself by gaming or crime, or by the avails of prostitution.